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marched

To my associate
in creative research
Margaret D. Purce

from
Roman Feldman

THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE

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Philadelphia 4, Pennsylvania

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LABOR RELATIONS AND THE PUBLIC

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Supplement: CALIFORNIA LOOKS AHEAD

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FOREWORD

THE American labor movement within the past fifteen years has telescoped, if not surpassed, an evolution which had been expected to take a half-century or more. In 1932 the La Guardia Anti-Injunction Act reversed the position of unionism at court from that of a victim of judicial processes to one of increasing immunity from them. In 1935 the National Labor Relations Act outlawed the age-old forms of opposition to labor organization practiced by employers, and placed upon them the further obligation of dealing affirmatively with any union representing the choice of the majority. Other Federal statutes and parallel measures in some of the states extended the arm of the law to areas and employments not otherwise covered. Especially important was the unquestionably friendly attitude shown by the agencies of enforcement and interpretation. For example, during the last two years of its existence the National War Labor Board granted a modified form of the closed shop in practically all of its decisions. The Supreme Court, hitherto a bugaboo of labor legislation and once anathema among unions, overturned hoary precedents and doctrines by surprisingly broad interpretations of the new laws. Thus rejuvenated, organized labor surged forward. While in 1932 it had numbered less than three million members—many of these holding cards but not working under labor agreements—by 1946 it had acquired over fifteen million members, had established collective bargaining as the prevailing pattern of American industry, and had shown notable evidences of permanence and strength.

Unfortunately, this advance has been accompanied by disturbances in labor relations which at times have assumed an alarming character. Strikes under-

taken on a coast-wide, industry-wide, or nation-wide scale on several recent occasions have well-nigh paralyzed our economic life. Such developments have shocked, perplexed, and bewildered the average citizen. For public support of collective bargaining has been founded not on mere partiality for unions but on the belief that unionism is good for society as a whole; that the special place given to organized labor in the law would release for constructive activity energies previously forced into belligerent channels; that it would result in a more stable, productive, and prosperous economy; and that it would promote a more democratic and satisfying way of life for all.

Citizens all over the land know that it takes two to make a quarrel, and they are therefore haunted by troubling questions such as these: Is the employer or labor principally at fault? Are present ills merely the temporary difficulties of postwar readjustment? Will the continuance of demands for higher wages and shorter hours, and an increasing resort to strikes, merely bring about inflation and then another depression? Are all these manifestations mere growing pains which will disappear as employers and unions attain maturity in their relationships? Should the situation be left to its own natural outcome, or should it be dealt with by new legislation and new administrative controls?

Informed and thoughtful views on such questions are offered by the distinguished contributors to this symposium. Though differing in many particulars, they have in common a deep interest in maintaining for labor an important and protected status consistent with democratic government. Some of these contributors believe that further government intervention and control would be

perilous; others are convinced that the times demand such an assumption of power by the public. In the variety of their approaches the reader will be

aided in arriving at his own solution for the problems of industrial relations which press upon the Nation.

HERMAN FELDMAN

The American Federation of Labor's Wage Policy

By WILLIAM GREEN

COMPENSATION for work is a matter about which there have always been sharp differences in points of view. The person who does the work may place a higher value on his services than the one who receives them, and the one who receives them may not have sufficient experience or desire for justice to enable him to evaluate another's services properly. Unless these two parties are able to argue through their differences and come to a mutual agreement, one of the parties will refuse to make an agreement or accept something that he feels is unjust. Not only is compensation for work a measure of the value of services, but it represents income for an individual and those dependent on him. Wage rates are therefore one of the most basic determinations in the lives of those who work for wages.

The wage rate is the basis on which workers plan their whole lives—the kind of home they can afford, the comforts it will contain, educational opportunities for their children, and all the details of living for which income must pay. The hourly wage rate is the index to workers' progress. The work day and work week may vary with business trends and expansion or decline in industry. These factors are important in determining total income, but the key to sustained progress generally is the hourly rate—the amount paid for a definite period of time—or the piece rate, for the completion of a unit of production. Some of the American Federation of Labor unions negotiate for hourly rates and some for piece rates, depending on the work done and the habits of the industry.

HOOR STANDARDS

But regardless of piece rates, hourly rates, or daily rates, the slogan of union campaigns has been "Decrease the hours and increase the pay." Back in the eighties the American Federation of Labor launched its 8-hour movement—first industry-wide and supplemented later by special union campaigns. We gained the Federal Eight Hour law and the Eight Hour Day in a number of industries and many shops, but it was not until the First World War that we substituted the 8- for the 12-hour day in steel. Through collective bargaining we have supplemented the shorter hours standards by provisions for overtime for work in excess of the hourly and weekly maximum.

In the 1920's an unusual increase in technical progress aided greatly in increasing productivity. Electric power made possible a different type of machine for repetitive processes. This type of production with assembly lines changed many types of manufacturing into mass production. As mass production can be sustained only by mass consumption, there developed a new argument for gearing wages to output, and one with an appeal to mass production employers. We supplemented our new wage standards by a demand for the 30-hour week to give workers time to recuperate from work strains as well as time for leisure to enjoy the things made available by higher technology. By making the 30-hour week our goal, the 40-hour week was made standard throughout key industries. Earnings were maintained or increased as hours were decreased, for increases in productivity resulted in larger out-

put, requiring higher compensation and providing income to pay it.

HIGH-WAGE PHILOSOPHY

The Federation, conscious of these trends as early as 1925, formulated what was known as its high-wage philosophy, declaring:

Social injustice, industrial instability and injustice must increase unless the workers' real wages, the purchasing power of their wages, coupled with a continuing reduction in the number of hours making up the working day are progressed in proportion to man's increasing power for production.

The Federation realistically did not seek to claim compensation for the total increase in productivity, and recognized that management's share must include returns on investment in improved machines. Unless such returns are provided, no industry will keep up with technical improvements, and wages will fall behind.

With concern for increased productivity came concern for production economies. The report of the Committee on Elimination of Waste in Industry¹ allocated twice as much direct responsibility for waste to management as to workers. This was a challenge which brought from our unions offers for co-operation to effect production economies. Beginning with the 1920's there developed formal union-management co-operation for production economies as a step to higher real wages as well as to provide a stabilizing factor in the business cycle.

As an additional stabilizing element, we urged adequate purchasing power to sustain high volume production. We pointed to the significance of the purchasing power of the most numerous group of buyers—the wage earners

whose whole incomes must go to provide for the needs of the workers and their families.

Only comparatively recently have records been available to measure increases in productivity. Previously the workers could argue only from personal experience and work instincts. When in 1931 the Federation reviewed gains during its first fifty years, it found that productivity in manufacturing industries had increased 26 per cent between 1899 and 1919, and 54 per cent in the latest decade. The corresponding increases in real wages was 4.2 per cent and 26 per cent.

In the earlier period of technical progress, when electrically driven machines were installed, union policies with respect to the use of machines as well as our wage policies were important factors in industrial progress. Where the union insisted that the craftsman man the new machines with no reductions in pay, we averted or minimized the evil known as technological unemployment, so that workers, management, and consumers shared in the benefits, and technical advance immediately became social progress. For example, the printers who were skilled hand setters of type demanded the right to man the Mergenthaler presses. The printers maintained their wages and their craft skills, and printing remained an art. More recently, when technical progress in electricity revolutionized lighting and communications, our electrical unions provided schools to teach their members electronics and were ready to co-operate in this progress.

American Federation of Labor unions became known throughout the world as advocates of the high-wage policy which they put into practice as rapidly as unions became effective. The organized workers of the United States have the highest wage rates and the highest material standards of living to be found in

¹ Federated American Engineering Societies, *Waste in Industry*, xi, 409 pp. (New York: McGraw-Hill Book Co., sole selling agents), 1921.

any industrial country. The driving power for these standards was the union. But not until Federal law gave all workers an effective right to union membership were workers able to organize unions in some industrial strongholds.

Likewise, union resistance to wage cuts during business depressions, instituted in 1903 and 1907, gained acceptance so that the practice of lowering wages in every depression was checked. Even the world economic catastrophe of the 1930's did not wipe out the wage and hour standards. On the contrary, as unemployment reached its all-time peak, Congress was giving favorable consideration to a 30-hour week.

The American Federation of Labor has consistently made its goal higher wage rates and higher real wages. We have consistently refused to tie wages to prices or to costs of living. We insist that wages are compensation for production. A decline in real wages is evidence of maladjustment in the distribution of returns from joint work, which, if it becomes cumulative, results in business depression.

The National Industrial Recovery Act of 1933, which was intended to help our economy back to normal, put a new emphasis on minimum wages. That act, followed by the Fair Labor Standards Act, served as a floor for competitive business and made minimum wages fixed by industries effective for men as well as for women. Lifting the floor necessitates appropriate increases in other rates in the wage structure, thus assuring adequate increases in purchasing power. For a laborer, the dignity and value of the individual gains in reality only if his earnings enable him to enjoy at least health and comfort standards of living. As technical progress continues, such standards should be assured to ever larger groups of people contributing to the production of wealth.

The rule of progress resulting from union demands pointed the way to maximum production with maximum employment at maximum wage rates.

DURING WORLD WAR II

Our normal wage policies and normal progress were interrupted by the Second World War. With the advent of war the American Federation of Labor pledged itself for the duration not to call strikes, and took part in developing machinery for adjusting disputes not adjusted through collective bargaining. Our pledge in no way committed our unions to a wage freeze, and we were assured that the price control legislation applied to prices only. When the Little Steel Formula was developed to freeze wages and collective bargaining, the American Federation of Labor expressed disagreement, though it yielded to public policy for the emergency.

Government control froze wage rates in the upper brackets to the index of consumers prices as of January 1941. To enable workers to meet costs of living after that date, the Government enforced regulations requiring overtime for hours in excess of standards and for holidays. A series of justifications raised rates for workers in lower brackets. Such raises were essential to manpower controls as well as to enable workers to meet costs; but these devices reduced differentials between skilled and unskilled workers, upset wage structures, and created new problems for postwar production.

The government wage control also set up differentials between earnings for workers in civilian production and those on war contracts. To the credit of war workers, production, output, and productivity continued to increase into the miracle of war production. The discrepancy between wage rates and output grew more exaggerated. In order to maintain production morale, the War

Labor Board was forced to introduce a number of devices for increasing take-home pay. These were in the form of reclassification of jobs, bonuses for increased output, adjustments by a bracket system to correct gross inequities, and so forth.

These various devices diverted collective bargaining from determination of wage rates to compensate for work done, and facilitated the institution of various formulas and techniques to increase the amounts in the pay envelopes. Whatever weakens collective bargaining or contractual determination of payment for work diverts wage decision into the field where pressure groups predominate. With pressure groups converging on political appointees, the whole issue becomes political.

AFTER V-J DAY

When V-J Day came, the President wisely ordered the abolition of the War Labor Board and returned wages to collective bargaining within price limits fixed by OPA. Price controls were still needed, as industry was entering the stage when threats of inflation were most dangerous.

V-J Day also ended the period of labor's no-strike pledge. The disciplined unions of the American Federation of Labor understood the President's order, and, like all believers in democratic institutions, made their plans to operate within regulations to promote the common welfare. All over the country union representatives began work to restore their wage structures and negotiated wage increases varying from 5 cents an hour to \$20 a week, or from 10 to 20 per cent.

These gains were made without interruption of production. In January of this year, when 1,800,000 persons were listed as on strike, only 112,000 were from AFL unions. Our unions have learned the costs of strikes and realize

that strike losses counteract their gains. This experience makes us wary about resorting to strikes. The strike we know is the basis of our economic power. It is a basic right to be protected at all hazards, and used wisely, sparingly, but effectively, when necessary. The right to strike means the right to insist on principle.

Unfortunately, some of the newer unions that had been materially aided by political influence, instead of arguing out their differences with their employers, used political influence to secure wage increases which were accompanied by increases in the price of their product. Big Steel, which increased wages 18½ cents and upped prices \$5 a ton, precipitated a new inflationary drive. More strikes followed and the pressures became so strong that the administration countermanded the return to collective bargaining and tied wages to prices in a way that facilitated inflation. Because the administration marked with approval the use of political pressure to increase wage rates, sound collective bargaining was again by-passed.

The disturbing element in this situation is the collusion between those persons in the Government seeking to perpetuate government controls or regimentation for their own purposes and Communist leaders in unions who seek to discredit collective bargaining and free enterprise.

POSSIBILITIES OF COLLECTIVE BARGAINING

Collective bargaining has limitless possibilities as it develops in various industries, adjusting itself to the distinctive needs and characteristics of the workers of each industry. It has served to raise the rates for all workers. It serves the needs of actors and musicians, sea captains and airline pilots, as well as factory workers, building tradesmen, and those in the service in-

dustries. The sea captain with his longer life averages \$5,700 a year, while the airline pilot with his short work life and heavy responsibility now seeks \$16,000 maximum for transoceanic flying. Some harbor pilots earn as high as \$20,000 yearly.

These higher rates reflect special training, personal characteristics, special technology, restricted work life, and other factors. Some steam-shovel operators have rates of \$4 and \$5 hourly. For the great masses of workers in industry, where the differences are not so specialized, \$2.25 per hour is high, and the basic Federal legal minimum is 40 cents. Union minima usually exceed the legal minimum by 80 to 100 per cent.

The fixing of minimum rates for classifications does not interfere with higher rates for individual ability or production. Wage rates fixed by collective bargaining are related to productivity and indicate whether or not workers are keeping pace with economic progress.

Wage rates are higher under collective bargaining in a free economy than under political controls, as we know from comparing the incomes of workers in private employment. One group of government employees in an essential service worked twenty years without an increase in pay, although the workers had to meet constantly higher requirements.

In our collective bargaining we have

refused to tie wages to costs of living and have insisted that the index of prices of goods usually bought by workers is useful only to indicate what wages will buy. Wage rates should be based on the workers' contribution to production. While there are many economic variables which affect the balance sheet of the employing company, these should not determine the compensation due workers for work done. We do not seek to restrict profits to fixed ranges or to eliminate them. Profits are the incentive of employers, not because they are avaricious but because money is the key to other opportunities. If wage rates and profits compensate fairly, the experience, the resourcefulness, the know-how, and the dependability of workers and management will be potent for continued economic progress.

The American Federation of Labor is convinced that through collective bargaining between free trade unions and employers in private industry lies the road to progress for workers, employers, and consumers. Our union members stand ready to produce the goods and services from which will come the income to pay them, and to co-operate in finding economies and increasing output to pay additional increases.

We seek more of this world's goods and opportunities and still better opportunities for our children and children's children.

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Labor's Recent Demands

By KATHERINE POLLAK ELLICKSON

THE question of whether labor demands and gets more than is conducive to public welfare rapidly leads to judgments on the functioning of the economy, and possibilities of improving it. American wage earners want a steady rising level of living, decent hours and working conditions, and security. Presumably, all but the few who see virtue in suffering agree with these general aims. Wage and salary earners make up a large majority of the working force, and improvement of their conditions benefits the Nation as a whole. The question is whether labor can and will push collective bargaining demands more rapidly than conditions warrant.

To most labor people, this will seem a very strange question. They are convinced that progress is far too slow—that prosperity depends on labor's receiving a larger share of the national income. The war experience proved the tremendous potential output of our Nation, but in peacetime lagging purchasing power has always bred stagnation. Union members realize increasingly that they could be living far better in the present stage of technological development. Yet their efforts through collective bargaining and political action have so far fallen short of assuring adequate wages, decent housing, real social security, or continuing full employment. Organized labor, for all its fifteen million members, has relatively slight power compared with the huge banking interests and billion-dollar corporations which emerged from the war better entrenched than ever and still play a major role in crucial decisions on the functioning of the economy. It is the practices of big business, not labor's desires, that damage the public

welfare. Union demands will lead to prosperity for all groups.¹

PRICE RISES DUE TO OTHER CAUSES

The concern about the feasibility of labor's demands presumably arises especially from the misapprehension that labor has been chiefly responsible for recent price increases. Business is naturally eager to shift the blame, which is largely its own. Analysis of the many factors which have raised prices shows that labor's role is very minor. Indeed, but for labor's strong support for price control, the situation would have been far worse.

Real price control requires a strong agency with adequate powers. The Office of Price Administration has always been hampered by a weak law, lack of funds, the presence of businessmen in key positions, and tremendous pressures from business and Congress. All these difficulties were intensified after V-J Day. Even before the old law expired on June 30, 1946, price increases were being granted at an accelerated rate. Then came the drive to abolish or annul price control, carried on openly by the National Association of Manufacturers and more subtly by Senator Taft and his friends. The act that President Truman finally approved was so weak that continuing price increases were assured.

The attack of business on price controls was accompanied by similar successful efforts to weaken the War Production Board's program for allocation of scarce commodities and control of

¹ For further information and analysis on this and other points, see such publications as the *Economic Outlook*, published by the CIO Department of Education and Research, 718 Jackson Place, Washington 6, D. C.

inventories. Any general planning for speeding reconversion as advocated by the CIO was bitterly denounced and defeated.

Reconversion difficulties could have been moderated if the Army had had more adequate inventory control, had made more reasonable demands for war needs, and had permitted civilian reconversion at an earlier stage. Instead, it piled up huge inventories which have still not been adequately released to help overcome serious shortages in many lines and thus help to offset inflationary pressures.

Other factors contributing to price increases were the huge business reserves accumulated during the war, the backed-up demand for goods, and the unprecedented size of savings, especially in the hands of the high income groups. In addition, currency in circulation and bank deposits were at record-high levels, and so was the Federal debt.

THE HIGH-PRICE-LOW-OUTPUT POLICY OF BUSINESS

The most important cause of all was the traditional business policy of seeking to set prices at levels that would permit large profits with low volume of production. The tendency was pointed up by a WPB study which indicated the low break-even point at which American industry could operate (the break-even point is the per cent of capacity at which companies can operate without losing money). According to the WPB survey of sixty-four industries, the average break-even point was 52 per cent of capacity, with a range from 20 to 90 per cent. Instead of realizing the evils that had followed from high-price-low-volume policies in the past, business insisted on a return to the prewar type of situation which kept nine million people unemployed even in 1940.

Labor hoped through its wage de-

mands to prevent the re-establishment of these disastrous policies. With volume production and efficient management, high wage rates do not mean high cost per item produced.² The wage increases that were granted in oil, in steel, in General Motors, and in many other cases were compromises developed by governmental fact-finding agencies. They represented a considerable reduction from labor's original demands. Even the unions which did not explicitly object to the granting of price increases in their industries based their arguments for wage raises on evidence to show that profits and reserves could absorb the additional costs.

Labor was seeking pricing for full-capacity operation, with wages high enough to sustain purchasing power once the immediate postwar demand had been satisfied. It failed in that effort, for industry refused to grant the wage increases until large price rises had either been given or made certain.

The OPA, unlike the boards which acted on wages, did not hold public hearings or release the information on which its price grants were based. Price increases generally were far greater than required, and huge profits are resulting as production rises.

The responsibility for the work stoppages in automobiles, steel, and other important CIO industries rests primarily on the employers because of their unwillingness to settle on reasonable terms. To quote President Philip Murray:

It was not a labor organization but the powerful General Motors Corporation which rejected an award of the President's Fact-Finding Board. It was not a labor

² A survey by the Federal Trade Commission in 1940 showed that wages amounted to only 8 per cent of the sales dollar in some industries, and in many were only 25 per cent. Thus, even where wage increases resulted in higher labor costs, the effect on total cost was not great.

organization but the United States Steel Corporation and the steel industry which refused to accept a decision of the President of the United States to settle the labor controversy in industry. It was not a labor organization but the powerful Westinghouse Corporation whose bad faith caused two United States Conciliators to withdraw in disgust.

Many companies had not really accepted the existence of unions and were deliberately trying to weaken them.

In any case, these stoppages were insignificant in their hampering of production as compared with other factors: shortages of basic production materials, lack of planning for essential output, deliberate withholding of goods from the market to force higher prices and profits, and the other customary restrictions and inefficiencies of monopolistic control. Only positive national policies for speeding reconversion and stabilizing the economy could have averted production delays and a higher price level.

In the summer of 1946, when prices were rapidly rising, the CIO again attempted to secure national action for a "stabilized economy." Experience had shown that additional wage increases would, under existing circumstances, be used as an excuse for further price rises. But unions must continue to protect the level of living of their members and thus in negotiating new contracts must seek wage increases if prices have gone up.

How can labor compromise its demands with no assurance that other groups will exercise similar restraint? or that Congress will work with the administration in developing a sound program?

LABOR'S FUTURE DEMANDS

Since economic conditions are changing rapidly, it is hazardous to predict

the exact form of labor's demands, even in the near future. Obviously they will be affected by such factors as the movement of prices and the extent of unemployment. As long as prices are soaring, labor must seek offsetting wage increases. Promises of price stabilization sometime in the future, offered as a substitute, will be received with skepticism by those who have repeatedly found such promises hollow. However prices move, labor will seek steadily increasing real wages (measured by their purchasing power) to take advantage of rising productivity. After World War I, output per man-hour in manufacturing is reported to have increased 10 per cent a year for three years. The tremendous technological advances and the increased capacity and skills resulting from World War II promise a similar rise now. Labor intends to share in the gain so as to enjoy better living levels and avoid general underconsumption and depression.

Labor also wants some assurance of steady employment and income as proposed through the guaranteed annual wage. This demand is a collective-bargaining approach to full employment. Although many employers declare a guarantee impractical, others realize that much can be done toward stabilization and that greater security contributes to efficiency and low unit cost. The insistence of unions on the guaranteed wage will vary with specific industry conditions.

When layoffs and unemployment become increasingly serious, there will be growing concentration on shortening the work week in order to spread work. This can be expected especially in industries such as the automobile where the precedent for such demands is strong. In general, shorter hours will be desired as technology makes them possible, especially where the work is exhausting and the conditions disagree-

able. Control of the speed-up is a constant object of attention.

Issues of union security, such as maintenance of membership, the union shop, and the checkoff, will continue to be important, especially where recent or continuing management hostility makes the unions uneasy. Only with a considerable degree of security to safeguard them from hostile employers are the unions free from overabsorption with mere survival.

Interest in group insurance may be expected to grow, especially while social security laws remain so inadequate. Attention will also be given to seniority problems, settlement of grievances, vacations with pay, overtime, and so forth.

Labor will not confine its demands to what business considers practical, because in the past this would have meant very meager progress. The unions deliberately seek to force changes in business operations so that labor may receive a square deal. Those who oppose changes will undoubtedly consider the demands impractical at the time, although, as in the past, experience will repeatedly show that adaptation is possible, with resultant benefits to the entire Nation.

SERIOUS LACK OF DATA

The more information labor has about business operations and economic conditions, the more practical its demands can be. Lack of such information is a serious problem which should be a matter of great concern to all those interested in peaceful settlement of labor disputes and in democratic solution of our basic economic problems.

Essential information should be available to labor and the public, not merely in the final stages of collective bargaining but when labor's original demands are formulated. The ordinary procedure in democratic unions such as constitute the CIO is for the locals to

pass resolutions on collective bargaining demands which are then considered by district and international conventions. Wage-policy committees chosen from subdivisions of a union are often assembled to help formulate the final demands and to consider offers from the employers. This whole process takes time, and the attitude of the unions on the issues crystallizes long in advance of the critical phase of negotiations. The more reliable information there is on the issues during this long process, the narrower the final area of disagreement is likely to be, and the easier will be settlement without stoppages. If issues are referred to a fact-finding body or arbitration, reliable information contributes to a maximum of justice and a minimum of bitterness.

Labor has continually sought to strengthen the United States Department of Labor and other agencies which can obtain and make available basic economic information. Although much progress has been made, the dearth of reliable, relevant data is still extremely serious. Most companies consider that information on their finances, labor costs, and wages is private. Many are reluctant to co-operate fully with the Department of Labor. Yet the Department has no power to require mandatory reports. The established procedure is to give assurance that information relating to a particular concern will not be revealed. Since bargaining is in terms of specific companies, this is a tremendous handicap. In addition, the necessity of retaining employers' co-operation exercises an inhibiting effect on the Department of Labor, which, according to law, is intended to assist labor.

LABOR'S EFFORTS TO GET INFORMATION

The lack of adequate information applies to virtually all phases of collective

bargaining, although especially acute on some issues. Labor has consistently supported government programs for expanded economic research, but conservatives in Congress have repeatedly trimmed the programs below the danger point. This has been due partly to the lack of understanding and partly to deliberate efforts by those who oppose progressive action.

Confronted by these difficulties, the unions mobilize whatever arguments and data they can in support of their desires and then are normally told that they are being impractical. The companies are in a much better position to present information, since it is in their possession. Labor is not permitted to see how the figures are derived and thus to assess their reliability or re-interpret them. Unions are too often expected to accept the evidence of the other party to the controversy—obviously a biased source. In such fields as productivity and employment stabilization, which are becoming increasingly important in collective bargaining, labor would like to participate in plans for co-operative studies with companies and the Department of Labor or the Presidential Sub-Committee on Guaranteed Wages; but in most cases, the companies, if they will allow government analysis of their records, will not permit union men to participate in planning the studies. Yet unless labor

knows how the results are obtained, it will naturally question them.

Confronted with these difficulties, the tremendous economic power of the corporations, and their vast influence on public opinion and Congress, labor is more likely to get too little than too much from collective bargaining. Of course unions, and especially the CIO, will continue to be blamed for all failures of our so-called free-enterprise economy to function effectively, even though the blame lies elsewhere! On occasion it is not impossible that unions may secure more than business and the economy will easily adapt themselves to. This is not likely to happen, but it could. On whom, then, would the blame rest? On labor, deprived of adequate information and adequate power to assist the economy to make the adaptations? or on business that denies labor both essential information and influence?

The general public, which feels that it is caught between these forces, would do well to recognize the chief sinners and its greatest potential allies. The people should insist that information crucial to their welfare no longer be considered private. They should likewise demand national policies for continuing full employment at full capacity so that labor may advance as rapidly as possible toward its goal of the good life for all.

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Industry's Viewpoint on Labor's Demands

By HERMAN W. STEINKRAUS

IF EVERY manager of an industrial plant in this country were asked what he thought about labor's demands, the answers would express every possible shade of opinion. Answers would range from those who are working harmoniously with unions today, and believe they can work out a fair compromise on labor's demands, to the other extreme of management who still wish for the good old days when a boss was a boss and made all the decisions.

No one member of management can speak for all industry, or has any authority to do so. Labor, on the other hand, has its properly elected spokesmen who can speak with full authority as to what labor's position is. It is unlikely that management will ever present a solid, unified opinion regarding labor. Some will tend to be conservative, others progressive, as they always have done. Indeed, it is a basic strength of American business that its leaders have been vigorous, independent, hard-working men, willing to launch into a competitive field and match their individual skills in developing successful business; we cannot expect them all to think alike.

In general, there has been a definite trend for management to give more and more consideration to labor, and serious study to the means of negotiating with labor on its problems.

It is very easy to picture labor encamped on one side with a set of demands, and management on the other side, opposing those demands. But that is oversimplifying the situation. Basically, a large share of labor's interests and management's are the same. To be sure, each moves in its own sphere, but there is in the middle a very large segment where the two

spheres coincide and are identical. When labor and management pull against each other, both lose. The more they co-operate, the more likely it is for them both to be successful. The successful labor union is always located with a successful company. If a company suffers serious loss through strikes or any other cause, it is to labor's disadvantage. Similarly, no company can long be successful in this day and age if it has an outmoded and unfair labor policy. Whether we like it or not, the good fortunes of both labor and management are closely woven together. To pit one against the other is to step backward and use the thinking of the past. The constructive way of looking at the situation is not to see first the differences between management and labor, but to realize the larger field of their mutual interests and agreements.

OBJECTIVES VERSUS METHODS

In the past year I have been called upon to sit on a number of committees and share a number of forum discussions where representatives of both management and labor took part. On a number of these occasions prominent labor leaders were present, as well as industrial relations experts. Each expressed his point of view. I can honestly say I can find no major conflict between the enlightened labor leaders and enlightened management as to the principal objectives for which both are striving. They agree fully on the importance of the individual to human society, the necessity of maintaining his dignity and his self-respect, and the fairness of giving him a proper reward for his efforts.

The clash comes when those leaders begin to discuss the methods to accomplish those ends. There they differ. It is my personal observation that here many labor leaders have shown too narrow a vision. Because their objectives are right, they feel that any means of accomplishing them is justified. Too often they use tactics that never will reach their objectives, but actually tend to drive labor and management further apart, with antagonism and disappointment on both sides. Too many demands have been laid down on a deadline for a strike.

EXTREME DEMANDS UNWISE

Further, the nature of the demands is extreme. It is much easier for a union to make a set of demands than for management to figure out how those demands are to be met and paid for. But it is a fact that it is the pattern for some unions to make demands far in excess of their expectations, in the belief that it puts them in a stronger "bargaining" position. I know of one union which regularly makes up its list of demands to its management by putting together all the ideas that any individual members of the union committee may present, no matter how farfetched, in addition to the set of demands given to it by its national headquarters. One such list of demands was so unreasonable that if granted, the company would have been put out of business in six months.

Certainly the first step forward that management would like to see labor take is to make demands which the leaders really believe are possible to accomplish, instead of presenting a long list which they do not expect to be accepted. Frequently workers do not realize what their own demands involve financially, but the demands are brought up regardless of the fact that it would be impossible for the company to ac-

cept them and still stay in business. Any demands should be based on fairness to the company as well as to the employee.

Even if the demands were not extreme, the deadline threat makes fair collective bargaining almost impossible. We get not collective bargaining but collective demanding. And to it is added the threat of strike!

Industrial leaders view these tactics with deep concern. How can there be any free and frank discussion, which is an essential part of collective bargaining, when a strike threat casts its shadow over every conference? Such a method thwarts genuine collective bargaining with management, which is the goal toward which the unions have worked for years.

This situation has come about partly from the very close control of the local unions by the internationals. Not so many years ago the strike demand was the result of local conditions which the local union felt must be changed in the interest of the workers. Causes of strikes differed widely, even in nearby localities. Now, however, demands of workers tend to be unified under direction of the international union, and labor justifies hardship on one particular company as necessary if it is part of a Nation-wide picture that benefits the union as a whole.

So demands are made, in some cases with threat of immediate strike, with little regard for the particular relations with the company, which may have a long record of excellent co-operation with labor. If a standard is to be set for an industry, the same demands are made to friendly and unfriendly companies alike.

It is extremely discouraging to the many progressive companies which have tried to do a good job with their unions and workers, when they find that in a time of crisis they are given the same

harsh treatment that is accorded management that has been in open conflict with unions. Here again, it is not so much the objectives of the international unions that management decries, as methods used in trying to reach those objectives.

The principal demands in which international unions seem most interested are four: first, union security, always working in the direction of a closed shop; second, higher wages, with the demand usually far in excess of what is really expected; third, strict seniority, by which the union can be perpetuated; and fourth, grievance procedure, which is really of assistance to management but can be made into a daily irritation, if the union wishes to do so, in any particular case.

THE CLOSED SHOP

Let us examine these four principal demands of the unions from the viewpoint of the industrial executive. The closed shop is not a new subject—it has been with us for a long time. If it were as simple as it sounds, it would have been settled long ago.

For such unions as those of the building trades, many executives are willing to say that the closed shop has some justification. It supplies the construction contractor with the help he needs at the time he needs it. Only with some form of control over the craft can any union function satisfactorily in that type of industry. Daily work is variable, dependent on many factors, consists of jobs of a few days here and a few days there, and is affected by demand and even by the weather. Many executives feel that the worker is entitled to a closed shop and union protection in such cases.

But demands have been made for a closed shop in all industry—not only in certain crafts. Now when it comes to the industrial plant, the situation is en-

tirely different. There employees work every day in the same plant, under the same management year in and year out. Management as a whole feels that there is no real justification for a closed shop there, from the standpoint of protection either to the unions or to the individual workers. In fact, the worker loses freedom of action under a closed-shop agreement. If he wants to hold his job he is forced to join the union, whether he wants to or not. Managements cannot go along with this, feeling that there is no necessity for it.

The War Labor Board spent many days and nights in discussing this subject during the war. It came to the conclusion that maintenance of membership was as far as it could go at that time. Many plants have maintenance-of-membership contracts now, with a dues-deduction plan. In cases where both union leadership and management have tried to make maintenance of membership work, it seems to have been possible to do so, with satisfactory results. On the other hand, it has been tried in other places where it has worked out very badly.

Considerable dispute has arisen over the question of dues deductions, where the company collects dues from union members with their consent, turning the dues over to the unions. It is surprising what an amount of argument has been held over this point. Some managements have resisted the idea in any form, holding that it is the union's own business to collect its due from its own members. Other managements have been willing to take this over. They feel that they would rather deduct the dues from the pay roll themselves than have union committee men spending valuable working time collecting union dues every month.

Here again, if there are basically good relations between the unions and the management of the plant, the mat-

ter of dues collection gives no trouble; but where relations are strained, it becomes one more source of conflict.

The purpose of all these plans is, of course, to ensure the security of the union in the plant, including its financial position. It wants to be sure of its dues. These plans no doubt help. But the real security of any union in any plant over a period of years rests not on any rules and agreements, but on its doing a good job, for the employees, the customers, and the management. Real union security depends on the kind of a job the union is performing. What is its record of co-operation? Are the workers in that plant better workers because they belong to the union? Is the company glad it has a union? (It is a fact that many companies would rather deal with a fair and well-organized union than with a weak union; and in preference to dealing with a weak union, they would rather have none at all.) If so, then the position of the union and the workers is really secure.

No company can promise a union or its employees permanent security. That is something that has to be worked out together. By teamwork it can be accomplished. By quarreling and threatening demands it is sure to be delayed, if not destroyed.

Often labor fails to realize that the prime responsibility of management is to keep the business going. Even with all the prosperity we have recently enjoyed, that is not easy, and the record of the last ten to twenty years shows many business failures as well as successes. To make a good product at a fair price, to give fair pay to those who make the product, to have an alert management quick to adjust the product to the demands of the times—that is the only way any company can have security for itself, or give it to its union or its employees.

HIGHER WAGES AFFECT COSTS

The second major demand of unions is a very important one, probably the most important one of all, namely, wage demands.

There is no doubt that over a period of years the accomplishments of unions for higher wages are very good. When men began to unite in organizations they could bargain more effectively than as individuals. Unions justly claim credit for many wage increases.

But much of the general public today believes that these demands for higher wages have been carried too far. The rising costs of products coming right on the heels of higher wages seem to the average person to be more than coincidental. If there is a wage increase, and right on top of it the cost of the article made has to go up, the worker has to pay more along with the rest, and his wage increase does not go very far. He may read in the papers or hear over the radio the opinion that wages are only a small part of a company's costs and that the increase could not possibly affect prices; but that does not alter the facts.

Here is a place where the fog of misstatement needs to be dispelled by the sunlight of honest truth. I have read and heard statements that labor is only 5 per cent of the total cost, or 8 per cent, or 10 per cent—never any appreciable amount; whereas, in my whole business experience, in all industries that I have known directly, wages amount to from 20 to 50 per cent of the total cost. In fact, when we trace a product from the mine or the forest to the ultimate consumer wages make up as much as 80 per cent of the final cost.

In all manufacturing industries the cost of labor in 1939 was 22.76 per cent; but since then this has increased over 50 per cent according to latest estimates available. In all manufactur-

ing where a great amount of work is done to transform the raw material into a finished product, the percentage of labor cost is very high. Labor is the largest amount of the cost of watches, fine jewelry, beautiful furniture, or items where great manual skill is needed. The labor may run as high as 80 per cent in such cases.

It is only in certain types of manufacturing where a minimum of work is done that the labor percentage is small. Such a case is the bottling of liquors by changing from bulk quantities into small containers. Naturally this type of manufacturer uses only a small labor force. It is very biased to cite such instances and say they are typical of the whole.

All this has a direct bearing on wage demands. Statistics show that during the past few years the average profit of a manufacturing industry, after taxes are paid, has been about three cents on a dollar of sales, or 3 per cent. Therefore, in any industry where labor is 25 per cent of the cost, the granting of a 15 per cent wage increase would wipe out the entire profit of the company and quickly put it in the red, unless price increases were granted to cover the wage increases. Much false propaganda has been spread abroad that large wage increases can be made without materially affecting prices. Yet where wage demands have been met prices have gone up (theorists to the contrary notwithstanding), and if we doubt it, all we have to do is look about us at the prices we are being asked to pay today for the products of those industries.

I do not believe that most of those who preached the theory of "more wages but no higher prices" were dishonest; they were simply stating what they would like to believe, instead of what the facts showed they ought to believe. Life is so constituted that when we de-

ceive ourselves we are making an even greater mistake than when we deceive others. It is no wonder that the American public today is facing a distinct disillusionment.

What is needed is the right understanding of the essential elements of cost, to calculate what increases in wages could reasonably be made without disturbing the price structure; for when the price structure is disturbed, it also upsets the real value of the worker's wages, which means the real purchasing power of his dollar. Endless successions of higher wages and higher prices wrecked the economy of nearly every European country after the First World War, and it could wreck the economy of our country right now, if not curbed. It simply is unsound economics to think that we can grant large wage increases and at the same time keep prices from also rising.

Let us be sensible. The working classes and union leaders do not have a monopoly on all the virtues, and management a monopoly on all bad characteristics. If somehow tomorrow all general managers of plants were by some magic changed over to become labor leaders, and all labor leaders were at the same time magically changed over to become plant managers, the situation would remain pretty much the same. So why condemn each other, and waste energy in fighting against basic laws? Rather, let us face the facts, and spend our time and energy to get along together and produce more efficiently. With larger production come lower costs, and with lower costs come lower prices, which is another way—and a very sure way—to increase the *real* wages of the workers.

SENIORITY

A third general subject of union demands is the matter of seniority. This means, in part, that those workers who

have been longest with the company shall have the greatest security in their jobs, and cannot be abruptly discharged. It also protects the union officials. Seniority clauses are written into every union contract.

Most managements accept seniority in principle, but feel that it should be qualified. They believe that skill and experience should be given equal consideration when they want to keep a certain employee or promote him; they do not feel that the length of time an employee has worked with the company is as important as does his union, which wants to guarantee him that job. As one management put it bluntly, "We are not going to discharge or hire any employee, regardless of his technical skill, because some union tells us we have got to."

It is easy to see that if a company has been in business a long time and has always had to keep its employees, if the business has experienced no expansion or growth, it may find itself with no young men coming along in its factory, but only middle-aged and old men in its employ. That certainly would not be a good situation for anyone. I recently heard of a plasterers' union where the average age of the men was so high, and no apprentices had been taken for so many years, that the work schedule had to be cut to five hours a day, because that was as long as the old men had the strength to work.

That may be just a story, and I hope it is, for any group has to have new lifeblood flowing in if it is to be progressive. Also, in individual cases it is only common sense that some men should be promoted over others, even if the others happen to have held their jobs longer.

So the whole subject of seniority is not so simple. Many serious strikes have been called where the question of seniority was a major part of the

disagreement. Management feels that ability should be given equal consideration with length of employment.

GRIEVANCE PROCEDURE

A fourth principal demand in union contracts is that for a good grievance procedure. Great progress has been made here in just the last few years under the impetus of war production. Many unions and companies have agreed on a sound procedure whereby a worker can receive prompt and specific answers to any work problem that is bothering him, or he can ask that an injustice, real or imaginary, be corrected.

An increasing number of companies welcome the operation of a grievance procedure. In numberless cases the atmosphere of the plant is more wholesome, freed from the undercurrent of petty grievances and complaints that otherwise have no outlet. Union stewards who use good judgment in handling grievances and taking them up with the company representatives are rendering a valuable service to their fellow workers.

An increasing number of contracts are being written with grievance procedure steps outlined in detail and with voluntary arbitration as the final step. My personal opinion is that a good grievance procedure is of great advantage to management as well as to the employees. Employees are in a better position than management to know firsthand when there is some condition to be corrected, and if employers take care of the small matter it is prevented from becoming a big matter.

A good grievance procedure functions even better if it is coupled with an adequate suggestion and reward system. It helps the employee to have an interest and a sense of pride in the place where he works, and it gives the man-

agement closer contacts with its employees.

Those are practical reasons in favor of a grievance procedure. There is another one which is far more important. That is, it is the first great step in the direction of negotiation between employer, employee, and the union; it is the first step in the handling of troubled situations through the use of reason instead of force; it relies on mutual agreement, instead of threats, to get results. It leads naturally to the larger picture of negotiation in the settling of disputes.

The use of strikes and strike threats is really a very old-fashioned, harsh, and unsound way to get results. We should know by now that use of force in any case is never the best way to get the things we want. To be sure, it is the quickest way, but it is always costliest in the end. It brings a train of resentment, hatred, and fear which are long in dying out. Very few are the benefits won by force which could not have been brought about by more intelligent methods, such as collective bargaining. True, it might have taken a little longer, but is this violent method worth the loss and the heartache that industrial communities have had to suffer in recent months?

I am against threats and force and strikes because they are unintelligent. They belong to the picture of the past, and are completely out of line with modern thinking and modern psychology. We have not begun to scratch the surface of what we can accomplish through negotiation. We are just learning to bargain collectively. The whole technique lies before us to be worked out, and in this direction, I am certain, instead of in strife and strikes, lies the path to better labor relations for the future.

When we reach that goal, the worker will be a happy man. He does not want

strife, and he does want peace. I do not believe any worker enjoys being forced out of work, but once he is called out on strike, no one knows how long it will be before he can work again, and it is usually much longer than his leaders estimate. I do not think any worker really wants to picket. No matter how picketing is defended, the fact remains that it is a dangerous setting for violence, and is certain to breed ill will and bad feeling and lead to accidents.

As one employer of labor, it is my hope that top union leaders will realize their opportunity and lead their members along the road of collective bargaining and co-operation with management for the good of all. I believe employees are ready for it and want it. The whole country is tired of strife and would welcome an era of industrial peace.

DISTORTED VIEW OF OWNERS

In this connection I might say it is surprising to see in union literature how often the owner of an industry is pictured as a bloated capitalist, with billions of dollars at his command. That may have been the picture thirty years ago, but it is far from being the case today.

For all the talk about big corporations, the fact is that the backbone of American industry is the small plant employing one hundred or fewer people. There are only a handful of large corporations which do a volume of sales of a billion dollars. There are fewer than a dozen such companies in the entire United States, and all but one of them are not family-owned, but are stock corporations. Their lists of stockholders, who own them, usually are twice as large as the number of employees.

In a few scattered companies the stock is owned by a few individuals, but those cases are the rare exceptions. The real owner of American business, the

real controller of the stock, is the American people. It has been estimated that over twenty million people own stock in the industries of our country today. Big business has to report not to some isolated plutocrat, rolling in wealth, but to millions of individuals who own stock—and the list is growing continually. Those individuals are not mysterious persons of wealth, who are often portrayed as the villain in the drama, but they are the teacher in your school, the grocer at the corner, the doctor, the office worker, or your neighbor. These are the real owners of American industry.

The much maligned managers of business are only hired men, who hold their jobs only as long as they can produce and manage the business intelligently for the stockholders; their tenure depends solely on their ability. In my personal acquaintance it has always been interesting to me that so many of them started as ordinary workers, who worked their way up in the plants they now manage.

MYTH OF BIG BUSINESS

Another myth which some writers try to get the public to believe is that grasping and selfish industrialists try to operate their factories at the minimum rate of production in order to make large margins of profit. What fallacious reasoning!

On the face of it, any person can see that when production is held down, costs are increased. If a factory were to operate at half its capacity, it is obvious that the taxes on that factory, the insurance, and the many other costs of maintenance of the property would be just as high as if it were operating at full capacity, and there would be only half the production with which to meet those costs. This means that the manufacturer would have to increase his price greatly, there would be fewer purchas-

ers, and eventually he would run himself out of business.

The cardinal principle of all manufacturers is to increase their market, to sell more products, at lower prices if possible, thereby giving better value, employing more people, and developing more satisfied customers.

When statements are made by union leaders that management holds down production, almost invariably they cite examples from the field of agriculture or horticulture. If there is an exceptionally large crop of apples or grapefruit and the bottom falls out of the market, such cases are cited as examples that the industry is trying to control production, and lets material go to waste rather than sell it at lower prices.

This is simply not a true statement of the over-all situation in industry in general. It has been true of crops, and even government controls have been established to regulate those markets; but by and large, all manufacturers, particularly of consumer goods, are constantly driving for more volume at lowest prices consistent with the quality offered.

LABOR DEPARTMENT OUTMODED

Finally, I would like to offer one specific suggestion regarding our Department of Labor. I believe it should be reorganized. Instead of being strictly a Department of Labor, as it is at present, it should become a Department of Labor and Industry, so that it can function impartially and be of more help to both labor and management.

It is easy to see why a Department of Labor was needed in 1914, when it was created, and how it served its purpose. It gave labor support at that time when labor was fighting an uphill battle. But the picture is vastly different today. Labor has matured, and won many privileges that would have

been considered impossible in those days. Now management, either rightly or wrongly, feels that it is not on an equal basis with labor in the Labor Department. It seems to me much could be accomplished by changing to a Department of Labor and Industry, which would bring labor and management closer together and be of great assistance to both, permitting them to have equal and fair representation in the councils of our government.

We all know that management needs the good will of labor, and labor can make no real gains at the expense of management. Only as they work together can industry make real progress.

In my opinion, the present machinery of the Labor Department is outmoded and inadequate. It needs complete overhauling, with new objectives suited

to 1946, not 1914. The best thing to do is to go over the whole assortment of overlapping and conflicting agencies and establish a sound, new national labor policy which is workable and fair. We no longer need a Department devoted solely to labor; we do need guidance from a Department of Labor and Industry, a Department that will head a system of collective bargaining and conciliation for the settling of disputes by intelligent and peaceful means.

The success of our Nation depends largely on the solution of our labor problems. If our Federal Government sets a national pattern for greater co-operation between labor and management, based on fair dealing, we can through this democratic process find the way, gradually but surely, to lasting industrial peace.

Herman W. Steinkraus is president and chairman of the board of the Bridgeport Brass Company, Bridgeport, Connecticut. During the war, his company, employing about six thousand men and having about ten thousand stockholders, was a leader in successful labor-management co-operation. Mr. Steinkraus is a member of the Advisory Committee to the United States Conciliation Service of the Department of Labor, and was a member of President Truman's Labor-Management Conference in November 1945. He is a speaker before labor and industrial groups and a contributor to numerous publications.

Public Interest in Current Wage Issues

By DEXTER MERRIAM KEEZER

IN THIS discussion the handling of major wage and hour issues since V-J Day is appraised from the point of view of a person concerned with the welfare of the public as a whole rather than with that of any particular segment of it. In attempting such an appraisal, which at this juncture inevitably has many loose ends, I make no pretense of complete capacity to escape the influence of preconceptions in shaping my notion of the public welfare. I shall, however, do my best either to avoid being influenced by them, or at least to avoid confusion by identifying my preconceptions quite explicitly. One of the most important of these, I am sure, is my conviction that competitive capitalism (emphasis on competitive) is more compatible with political democracy of the sort prevailing in the United States, which I do not want destroyed, than any of the various forms of collectivist economic organization now competing with it. This conviction, no doubt, colors my attitude toward the handling of many economic issues, including those centered in hours and wages.

BACKGROUND OF FEDERAL POLICY

The role which the Federal Government played in setting the stage for a series of major conflicts over wages shortly after V-J Day is too well known to require extensive review here. It developed largely, and I am inclined to think primarily, out of a mistaken conclusion in the field of economic forecasting. It was that, thanks primarily to the termination of war production which it made possible, V-J Day would usher in a period of relatively large-scale unemployment. For example, on August 30, 1945, shortly after V-J Day,

the Director of Reconversion estimated that the unemployed would probably aggregate 6,000,000 by the end of the year and perhaps as many as 8,000,000 by early spring; and the Secretary of Labor said he looked for from 6,000,000 to 8,000,000 unemployed by spring. (The total in December, as estimated by United States Department of Commerce, turned out to be 1,950,000, and in April 1946 it was 2,350,000.)

In the light of such a substantial loosening of the labor market as they envisaged, those in charge of the Federal Government's wartime program of price stabilization, which had brought both prices and wages under control, thought that it would be possible to dispense with wage control and still avoid any dangerous upward pressure on prices from wage increases. Indeed, they were persuaded not only that it could no longer be necessary for the War Labor Board to hold the lid on wages, but that if the elimination of wartime employment opportunities, particularly those to work overtime for premium pay, were not to result in a deeply disturbing reduction in the volume of wage payments, it would be necessary to increase wage rates.

Reflecting this general point of view the President, almost immediately after V-J Day, returned the determination of wages to direct negotiation between employees and workers. As a means of cushioning expected reductions in wartime take-home pay, he also urged employers to raise wages as far as they could be raised without disturbing the existing price ceilings. In the meantime, in anticipation of a continuing shortage of most products, particularly in relation to the large backlog of purchasing power built up during the war,

the prevailing system of price control was left intact.

Another consideration which contributed to the decision to dismantle wage control and advocate wage rate increases within the limits set by prevailing price ceilings was the conviction of a group of economists in the employ of the Federal Government, and Federal officials persuaded by their diagnosis, that to avoid having the economy bogged down before long by an excess of productive capacity and a shortage of demand from consumers to keep it going, the share of purchasing power going to those who would spend it for consumers' goods must be increased relative to that going to those who would save it.

Regardless of the exact motivation which prompted the arrangements, the fact remains that we moved into the postwar period with the commodity price control lid, managed by the Office of Price Administration, left in place but with the lid on wage rates, which had been managed by the War Labor Board, removed and with the Federal Government, in the person of the President himself, urging that wage rates be increased as much as they could be without disturbing the lid on prices. In October the President said "Wage increases are . . . imperative" to offset war-end reductions in take-home pay as a result of reductions in the work week and attendant opportunities to earn overtime pay, elimination of the wartime practice of placing workers in higher-paying jobs than they would normally fill, and shifts of workers from high-paying war jobs to lower-paying jobs in civilian industry. He insisted, however, that to serve their purpose these increases must not lead to price increases, and expressed the opinion that it would be possible to make substantial wage increases on this basis because of "the very favorable profit

position" of business and reductions in its labor costs resulting from elimination of overtime, downward reclassification of workers, and increased output per hour of work.

DEMAND FOR 30 PER CENT INCREASE

Within this framework of Federal mandate and policy it proved feasible in the months following V-J Day to work out through collective bargaining several thousand wage-rate increases which representatives of some millions of organized workers found acceptable. In its *Monthly Survey* for January 1946, the American Federation of Labor announced that "since V-J Day, unions affiliated with A. F. of L. have won wage increases averaging from 10 to 20 per cent and more for at least 2,500,000 workers," and that "the vast majority of these wage gains have been won without strike or threat of strike."

However, in a series of major cases, involving for the most part CIO unions in mass production industries, it was not possible to reach agreement on an appropriate wage adjustment through collective bargaining, and work stoppages ensued. The principal wage demand of the unions involved was generally an increase of 30 per cent in the straight-time hourly rate of pay. This demand was usually justified both on the ground that the companies could afford it and that it would approximately offset losses in take-home pay resulting from a reduced work week, less overtime pay, downgrading, and so forth. In this connection much stress was placed on the fact that the reduction of the work week from 48 to 40 hours per week, which was authorized on August 30, 1945, would mean a reduction in pay in the proportion of 52 to 40, because time and a half had been paid for the eight hours over 40.

With varying degrees of emphasis, the demand for a 30 per cent increase

in wage rates was also based on the proposition that it was essential to the maintenance of a volume of consumer purchasing power sufficient to sustain the high level of production which war-time experience had demonstrated was possible, thus translating this high level into increased standards of living.

Stressing this aspect of the demand, that division of the United Automobile Workers of America, CIO, representing the employees of the General Motors Corporation used "Purchasing Power for Prosperity" as the title of an extended statement of "The Case of the General Motors Workers for Maintaining Take-Home Pay," in the course of which it was argued at length that "maintenance of take-home pay is absolutely essential if we are to undertake the national task of achieving a standard of living 50 per cent above prewar levels." Thus the position of the union in seeking a wage increase to expand consumer purchasing power was associated with that of the government economists previously mentioned.

THE PATTERN SET

In trying to settle the strikes precipitated by the conflict over the demand for a 30 per cent increase, the Federal Government followed a shifting course. In the General Motors case the President appointed a so-called "fact-finding board" of three to look into the dispute and recommend a suitable settlement. He followed the same procedure in dealing with a number of other major disputes. When the General Motors fact-finding board concluded that the company could pay a wage increase of 19½ cents per hour without requiring compensating price adjustments, a conclusion which later proved ill-founded, the President of the United States indicated that he thought the company should grant such an increase, which the union stated it would accept. In

trying to resolve an impasse over a wage adjustment in the steel industry, however, the President acted directly in the role of a mediator and recommended an increase of 18½ cents an hour even though it would require an upward revision of steel prices. Indeed, disagreement over the amount of the price relief to be afforded by the Federal Government was the main issue in the four-week work stoppage in the steel industry. On February 15, 1946 the United States Steel Corporation, reluctantly pressed into the position of representative of the steel industry as a whole in working out a wage adjustment, agreed to accept the President's recommendation of an 18½ cents per hour increase.

In making this recommendation the President was trying to bridge the gap between a wage increase of 15 cents an hour which had been offered by the steel corporation, on the understanding that the Federal Office of Price Administration would authorize an increase in the price of steel of disputed proportions, and an increase of 19½ cents per hour which the union said would be acceptable after the fact-finding board in the General Motors case had, during the course of the steel wage negotiations, recommended this figure as appropriate in the General Motors case. It was credibly reported that agreement on a wage increase of 15 cents per hour had been virtually reached when the fact-finding board's recommendation was announced.

THE IMPRESSION CREATED

Representatives of the Federal Government, of course, made the point that the underlying economic facts in the two cases were quite different; but representatives of the United States Steelworkers of America, CIO, stressed the point, at least in their own thinking, that if they were to accept a wage adjustment substantially lower than that

recommended in the General Motors case, they would not look very glamorous to their membership, when compared to the leaders of the United Automobile Workers, CIO.

When the President proposed a steel wage increase within a penny an hour as large as that recommended in the General Motors case, and of the same figure at which the Motors case was finally settled after a strike lasting sixteen weeks, he created a powerful impression both among organized workers and among the populace at large that the Federal Government was agreeable to a wage increase of about $18\frac{1}{2}$ cents an hour regardless of whether or not a raising of the lid on prices would be necessary to accommodate it. Following the settlement of the steel strike, with its attendant creation of what was, in emulation of military terminology, called a bulge in the price control line, wage control regulations were redrawn in the hope of getting wage adjustments back on a case-by-case basis; but they did not dispel the force of this impression.

Indeed, at the outset of wage negotiations in the soft coal industry which were inaugurated shortly after the settlement of the steel strike, the operators expressed a willingness to grant a wage increase of $18\frac{1}{2}$ cents per hour. However, the subsequent impasse over a wage adjustment was not broken until the Federal Government, which had taken over the soft coal mines in the course of a 45-day strike, had agreed to a wage rate increase of $18\frac{1}{2}$ cents an hour and other adjustments affecting wage costs, including most notably the provision of a miners' health and welfare fund by a levy of five cents per ton on all coal mined, which the operators estimated was equivalent to a wage rate increase of $7\frac{1}{2}$ cents an hour, thus making the total adjustment equivalent to a wage rate increase of 26 cents per

hour. The union offered no comparable estimate.¹

VARIOUS STRIKES

The general pattern of an $18\frac{1}{2}$ cents per hour increase was also extended to railroad workers when, on May 25, 1946, in the course of a crisis created by a two-day railroad strike, an increase of that amount was granted to a large body of rail workers. An Emergency Board, appointed in conformity with the Railway Labor Act to recommend a suitable settlement of the railroad wage dispute, had proposed an increase of 16 cents an hour. The rail unions did not, however, win approval of changes in their working rules which had been viewed adversely by the Emergency Board and which it was the primary purpose of their strike to secure.

While the United Mine Workers were successfully striking for an upward wage adjustment substantially in excess of the increase of $18\frac{1}{2}$ cents an hour which the President had recommended as appropriate in the case of the steel industry, the attainment of a wage increase of that magnitude was the major objective of the workers in resorting to strike action in scores of smaller cases.² At the same time, mem-

¹ The operators accounted for the $7\frac{1}{2}$ cents an hour as follows: 3 cents an hour as the equivalent in cents per hour of pay or a levy of 5 cents an hour on all coal mined, to create a miners' health and welfare fund; $2\frac{1}{2}$ cents an hour in added vacation allowances; and 2 cents an hour in overtime pay adjustments because of the required workday. There is complicated technical argument as to the extent to which these adjustments fell within the limits set by the national wage stabilization program. It is clear, however, that in one way and another the soft coal miners secured an adjustment of pay and allowances substantially in excess of an increase of $18\frac{1}{2}$ cents an hour.

² On May 22 the conciliators of the United States Department of Labor were working on 345 strikes involving 176,000 workers. Representatives of the Department stated that other

bers of some of the unions which had been granted an increase of $18\frac{1}{2}$ cents per hour were contending that another increase had immediately been made necessary by increased living costs which had devoured the advantage of the first; and their leaders were making known their intention to seek new wage gains in a large assortment of ways, including conspicuously a guaranteed annual wage and the same weekly wage for fewer hours, at the expiration of present collective bargaining agreements, which for many major unions in mass production industries comes early in the year 1947.

Thus it might be said in rough—very rough—summary that in mid-1946 a wage increase of $18\frac{1}{2}$ cents per hour, prescribed by the President for the steel industry, had become a sort of pivotal point for the first wave of wage adjustments following V-J Day. One union, the United Mine Workers, had conspicuously succeeded in securing an adjustment substantially in excess of that amount, with an attendant increase in the cost of coal (estimated from 25 to 50 cents per ton), and many other unions were carrying on strikes in order to get, as one national labor leader put it, "that $18\frac{1}{2}$ cents the President told us we've got coming." On June 8, 1946, with the settlement of the anthracite coal strike on the same terms as the soft coal strike, there was, for the first time in almost eight months, no major strike in progress. There was, however, anything but assurance that the lull would be extended.

CONFUSED DEVELOPMENTS

In coming to this lull the Nation had established imposing new highs in man-days lost through strikes called primarily to enforce wage demands. The process of making a change-over from strikes which had not been reported to it might be in progress.

a wartime to a peacetime economy and getting the latter in orderly operation had been jammed in a myriad of large and small ways. Substantial price increases in basic products such as coal and steel had been approved by the Federal Director of Economic Stabilization in the process of accommodating wage increases, and an inflationary wage-price advance had thus been officially set in motion. The railroad strike, coming on top of the soft coal strike, had created a crisis in which the President of the United States felt constrained to ask Congress for authority to use a military draft in an effort to break strikes in industries which had been seized by the Government because of their crucial importance to the public. During the course of the crisis both houses of Congress had, for the first time in thirteen years, passed legislation designed to curtail the power of organized labor, and the House had come within a few votes of repassing the legislation over the President's veto.

With the exception of the excited legislative development which many would approve as a step of sorts toward what seems to them a more attractive balance between the power of organized labor and that of other groups, there would be quite general agreement that, of itself, this course of events ran strongly against the public interest. However, there would be widespread insistence that, unfortunate as was the labor conflict and its attendant disruption of the Nation's economic life, it was necessary to make, or at least move toward, wage adjustments essential both to the effective operation of the economy in the postwar period and to the fulfillment of the dictates of fair play for workers.

Thus the business of determining how the handling of wage issues since V-J Day has affected the public interest comes to involve a balancing of the

losses incurred as a result of the three-way conflict between workers, employers, and the Government, with such gains as there may have been both in putting the economy in better working order to carry on successfully and in making a more equitable distribution of the proceeds of production. These gains and losses do not lend themselves to the construction of anything like a precise balance sheet, for some of them involve inponderables such as states of mind; some of them cannot be measured accurately because the available measuring machinery is not good enough; and the significance of still others depends upon economic developments still ahead of us.

PRODUCTION LOSSES

It might seem offhand that one of the simpler parts in a balance sheet of the sort required would be the losses in production attributable to work stoppages caused by conflict over wages. When asked for help in calculating these losses, however, the then acting head of the Federal Bureau of Labor Statistics said that his agency had abandoned the problem as involving "an impossible job." It had totaled the days lost as a result of strikes, which between V-J Day and the end of May 1946 had come to about 110,000,000. This was something over ten times the number of man-days lost during the same length of time prior to V-J Day, and represented about 2 per cent of the man-days available to all industry if no strikes had occurred. When it came to translating this record-breaking number of days lost through strikes into terms of production, however, the task was found to be hopelessly complicated. All the major strikes had ramifications throughout industry directly affecting production, which in breadth and duration defied accurate calculation.

It is my guess that if the no-strike

record had been maintained as well during the year after V-J Day as it was during the year before, when only a small fraction of 1 per cent of the man-hours available to industry were lost through strikes, the gross national product would have been about five and a half billion dollars greater during the latter year than it actually was. And, of course, in some crucially important lines such as automotive production, where by mid-1946 it was estimated that strikes had put the industry about 1,500,000 units behind schedule, the gain in production would have been far greater proportionately.

If called upon, I could array my guess in a statistical adornment which might have the effect of increasing its plausibility. It would still remain a crude guess, however. It also would not take into account losses in production continuing beyond the year in question because of tie-ups in reconversion and the creation of continuing shortages of particularly critical products. Nor would it even pretend to summarize "shifts in industrial power, rancor affecting industrial relations and union discipline, upset wage-cost-price ratios, and the encouragement of inflationary pressures" which the National Industrial Conference Board cites in concluding, as did the acting chief of the Bureau of Labor Statistics, that "the true cost of the strikes of 1945-46 will never be known."

REDIRECTION OF PRODUCTIVE EARNINGS

Likewise, it is impossible at this juncture even to make a start toward gauging either what wage adjustments since V-J Day have done to change the balance between the distributive shares from production going to wages and salaries and to profits and interest, or the significance of such change. As noted earlier, it was the position of a number of economists in the employ of

the Federal Government that during the war the income from production had become dangerously overbalanced on the profit side and must be redressed by an increase of the share going to wage earners in order to avoid having a damper put upon the Nation's economic activity by a shortage of consumer purchasing power. In support of their position they cited the fact that in the first quarter of 1941 the total of entrepreneurial profits (agricultural and nonagricultural), interest and rents, and net corporate profits was running at an annual rate of 28 billion dollars, compared to a rate of 54 billion dollars for wages and salaries; while during the second quarter of 1945 these aggregates (calculated on a comparable basis) were running at annual rates of about 54 and 98 billion dollars respectively.

While it will be noted that the aggregates had remained much the same relatively, it was the influential contention of the economists in question that absolutely the share going to profits and interest had grown so large that it would result in a volume of savings that could not be absorbed by investment over any length of time and must be diverted to wages and salaries to maintain an adequate flow of consumer purchasing power. They also argued that the period immediately following V-J Day was a peculiarly propitious time to inaugurate such a diversion, because corporate profits as a whole were running at a high level. For example, a group of economists associated with the Federal Office of War Mobilization and Reconversion advised the President in a private memorandum, which "leaked" and became public, that wage rates in manufacturing might be increased an average of 24 per cent without necessitating a lifting of price ceilings.

However, both the extent and the significance of the reapportionment effected by wage adjustments since V-J

Day have been blurred by a decidedly abnormal course of production, due both to strikes and to reconversion, and by rapidly changing prices. In the meantime, most of those economists who advocated such a reapportionment—largely adherents of the highly contentious purchasing-power theory of prosperity which there is no possibility of exploring here—retain as an article of faith the conviction that when the large backlog of demand for goods and services built up during the war begins to play out, it will prove a great economic boon to the Nation to have increased wage rates as they have been increased since V-J Day. However, time alone can tell whether or not their faith is valid, or whether the balance of economic wisdom is on the side of those who argue that the adjustments were essentially disastrous because of the distortion of cost-price relationships and the stimulation to price inflation which they provided.

SETBACK TO COLLECTIVE BARGAINING

Although the economic gains and losses from the course of wage adjustments since V-J Day cannot be precisely measured, a number of consequences as obvious as they are important flowed from the fact that the President of the United States personally recommended a wage increase of 18½ cents an hour in the steel case, and thus tended to give an increase of this magnitude, for which he favored some compensating price relief, the status of a sort of hallmark in the first postwar round of wage adjustments. One consequence, as phrased by Sumner H. Slichter, was

a body blow for collective bargaining. Thousands of union leaders had settled for less (indeed, four out of five settlements had been for less), and the employers had received no price relief. The President's

recommendation made the leaders who had accepted less than 18½ cents seem "easy marks."³

VARIATIONS IN WAGE ADJUSTMENTS

Another consequence was a tendency to increase both the inflationary impact of such wage adjustments and the distortion of relationships between costs and prices. During the war period there were enormous variations in the wage adjustments made in different industries. Between January 1941, the base date used by the National Labor Relations Board in calculating wage rate increases permitted by the Little Steel Formula, and March 1945, the last month of full war production, increases in straight-time hourly earnings varied all the way from 13 per cent in the malt beverage industry to 94 per cent in the women's apparel industry. The share of the cost of the products, represented by direct wage payments, also varied greatly from industry to industry. In 1939, the last year for which such figures are available, the share of total sales represented by wage payments to production ranged all the way from 2.5 per cent in cigarette manufacturing to 34.3 per cent in hosiery manufacturing and 62.2 per cent (for wages and salaries combined) in the coal mining industry.

It is obvious that a uniform wage increase in the petroleum refining industry, where the wage bill is only 5.2 per cent of the total sales and where wage rates had been increased about 19 per cent during the war, would have a decidedly different impact on the cost-price relationship than it would have in the industry manufacturing machine tool accessories, where wage rates, which constitute about one-third of the total proceeds from sales, had been increased

by 64 per cent between January 1, 1941 and March 1945.⁴

The effect of the tendency to make a relatively uniform wage adjustment under pressure of leadership from the White House has been obscured by the rush of business generated by the building up of great shortages during the war, as well as by a tremendous backlog of purchasing power with which to overcome these shortages. However, when this first rush of accumulated demand has spent itself, it may well develop that the most bothersome precipitate of the first round of wage increases following V-J Day may be found in the distortion of a whole series of price-cost relationships from their traditional pattern, with attending price and production complications.

INFLATIONARY EFFECTS

In the varying financial circumstances of different industries, the inflationary effects on prices of relatively uniform wage adjustment have also varied markedly. As already noted, the President's Fact-Finding Committee recommended a wage increase of 18½ cents an hour for the employees of the General Motors Corporation, on what proved to be the erroneous assumption that it would entail no inflation of prices of the products of the corporation. It was recognized from the outset, however, that an increase in the same dimensions for workers in the steel industry would necessitate immediate inflation in the prices of the products involved, and a measure of price relief was recommended and ultimately approved. Thus a wage increase was directly translated

⁴ It was in the petroleum refining industry that the Oil Workers International Union, CIO, led off the post-V-J-Day series of national strikes to secure a 30 per cent increase in wage rates. They gained an increase of 18 per cent. The figures on variations in wage rates were calculated from reports by the United States Bureau of Labor Statistics.

³ "What Do Strikes Teach Us?" *Atlantic Monthly*, May 1946.

into a price increase, and price inflation promoted accordingly.

In other cases, wage increases were absorbed in whole or in part by the enterprises involved, sometimes at the expense of profits while the enterprises were contending for price relief. However, there is still a large element of truth in the observations in the July 1946 issue of *Labor's Monthly Survey*, an official publication of the American Federation of Labor, that "wage increases this spring have been paid for by raising prices." In its *Economic Outlook* for the same month, the Department of Education and Research of the CIO reflected much the same conclusion when it remarked, "It is not so sure, however, that widespread wage increases can be won at this time. If won, they are likely to be promptly reflected in further price rises."

The extent to which wage increases gave the impetus to price increases and the extent to which the impetus was due to other factors such as the impact of the tremendous wartime accumulation of purchasing power on goods which continued in short supply is another of these questions which, because of the magnitude and complexity of the elements involved, will never be precisely answered. It is entirely clear, however, that certain major wage increases such as those granted to the workers in the steel and coal industries exercised a direct and immediate leverage on prices of products involved, and that this leverage was ramified through the economy to complicate further the problem of controlling the spiraling price inflation which has constituted the Nation's overshadowing problem since V-J Day.

WHAT MIGHT HAVE BEEN DONE

While, as I have emphasized, a balance sheet of the gains and losses to the public from the handling of wage issues since V-J Day cannot be either precise

or final at this juncture, it is not necessary to wait any longer to arrive safely at the conclusion that the public could have been far better served in handling the whole business than it was, particularly by the Federal Government. With the Federal Government, in the person of the President himself, stressing the desirability of wage increases, labor leaders certainly cannot be blamed for going after them lustily. To have done otherwise would have obviously placed their leadership in jeopardy. Likewise, employers cannot be blamed for resisting demands which in the absence of price relief would cut their profits ruinously, and with price relief would give another spin to a potentially disastrous inflationary spiral in the course of boosting their prices. However, in a number of key cases, already mentioned, there were clear demonstrations that this was the nature of the wage demands sponsored by the Federal Government.

The pressure for wage increases was, of course, also enhanced by war-end reductions in take-home pay. Such reductions were nowhere near as numerous or as large as the demand for a compensating increase of 30 per cent in wage rates implied, but they were frequently substantial. Some of the reductions, such as those of overtime pay, shift-premium pay, and exceptionally high wartime pay grades also involved reductions in labor costs, perhaps averaging as much as 10 per cent in manufacturing industries as a whole. One key element of a sensible wage policy would have been to do everything possible to convert these savings in labor costs into wage rate increases and thus ease the substantial hardship imposed on some workers by war-end reduction in take-home pay.

With that done, a second key element would have been one of watchful waiting while giving that share of industry which had been converted to war pro-

duction a chance to reconvert to peacetime production, and civilian industry a chance to get squared away to resume its peacetime advance in labor productivity. Then with such adjustments made, presumably in the course of a relatively few months, the culminating elements of a wise policy would have been a series of wage adjustments in which a controlling consideration would have been the capacity of the industry to pay them without converting them into increases in the prices of their products and thus compounding the danger of a runaway price inflation.

Within such limits it would, I believe, have been the purpose of a wise wage policy to grant wage increases to the maximum permitted by the capacity of the industry to pay and still command the capital and managerial service essential to effective performance. This capacity would vary markedly from industry to industry—a fact which a wise policy would take into account. However, capacity to pay wage increases might, I believe, be substantially expanded, and rather rapidly, by concentrating on the adaption to civilian industry of improved methods of production devised by war industry and the speeding up of improvements in productivity which it was necessary to defer during the war.

During the war the advance in the productivity of labor in civilian industries, which had averaged about 3 per cent a year over a long period of years, was arrested because of the diversion of the more efficient labor force and new equipment to war industry. Therefore, productivity of labor in the civilian manufacturing industries (a group of 23) for which the Federal Bureau of Labor Statistics is able to keep what it regards as relatively satisfactory records was on the average no higher in 1945 than it had been in 1941. Consequently, when substantial wage in-

creases were forced before there could be a resumption of the peacetime advance in productivity, they could in numerous cases be absorbed only by increased prices which washed out much of the usefulness of the increases to the workers involved.

COMPLICATIONS

The conflict over wage adjustments attending this unhappy process created so much mutual rancor among the parties involved that it seriously complicates a return to a sensible adjustment of the sort suggested, since a prerequisite of effective application of such a policy is a large measure of mutual confidence and respect. A further complication is the fact that the leaders of a consequential segment of organized labor in the United States are currently more interested in scuttling our traditional system of private enterprise than in making it work well. At the same time, there remain employers who are more interested in scuttling unions than they are in working out an economically sensible *modus vivendi*.

It remains true, however, that for a large segment of American industry, what would have been a wise wage policy on V-J Day from a public point of view remains a wise policy today. The problem which provides the crucial test of such a policy remains that of getting production flowing freely before jamming the process up with fights over the division of the proceeds.

Perhaps the greatest obstacle in the way of a solution of this problem is the absence of any generally accepted principles to govern the distribution of the proceeds of increased production. The day was when it would be comfortably if not always satisfactorily said, "Leave all of that to competition." In these days when bargaining over hours and wages is increasingly done on an industry-wide basis between national unions

and national associations of employers, both of them exercising large measures of restraint upon competition, leaving it to competition obviously offers a feeble solution.

THE PROSPECT

In the continued absence of such principles (and I see almost no headway being made in devising them), it is to be anticipated that organized labor and organized employers will continue to meet head-on, with the conflict eventuating either in devastating strikes or in agreements to accommodate wage increases at the expense of the consuming public. Under such circumstances it is also to be anticipated that the Federal Government will be more or less continuously forced to intervene to prescribe wages and working conditions. I deplore this prospect, for I would far prefer to have wages, hours, and working conditions determined by collective

bargaining, cumbersome and crude as is that excessively praised process of fumbling, bluffing, and bulldozing toward an adjustment which should be made with hairbreadth precision.

Granted the prospect materializes, however, the Federal Government will, if it profits from its experience since V-J Day, at least avoid basing its course of action on a major error in economic forecasting. It is too much to ask or expect the Federal Government or any other agency to foresee the economic future with complete accuracy. It can properly be expected, however, to follow a policy which has a two-way exit if the guesses about the economic future which must inevitably be made prove wrong. Perhaps that is the principal moral drawn from the dismal record of handling wage and hour issues since V-J Day, and the underlining of it may conceivably justify this comparably dismal chronicle of it.

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Union Finances and Elections

By THERESA WOLFSON

THE concern of the public in the structure, organization, and function of trade unions today arises out of the fact that unions claim a membership of almost fourteen million workers; that, despite the fact that in some industries there is relatively little union organization, in other industries such as steel, coal, and automobiles, there is virtually complete organization of all workers employed in the industries. A strike in these industries results in a paralysis of the Nation's economy; even a conflict between unions may result in a serious stoppage of production. Our postwar world is hungry for goods and services. Organized labor, in the minds and emotions of many, is becoming too powerful for the "Nation's good." Hence the hue and cry for regulation of trade unions, for legislation outlawing strikes in public utilities, for legislation compelling democracy within the trade unions.

IMPLICATIONS OF PUBLIC REGULATION

The helter-skelter legislation which Congress passed as a result of the outcry against trade unions, without studying the causes of strikes or the implications of regulation, is a reflection of weakness in our political organization. Many trade union leaders recognize their responsibility to the public. They recognize that the trade union is a microcosm of the Nation. They are concerned with the perpetuation of the democratic process in the trade union and in the Nation. But many others, like many politicians and corporation executives, are selfish, dictatorial, and ruthless. Their mania for power should be checked; but can it be checked by legislation conceived in hysterical bitterness without due study of the social

and economic implications of such legislation upon union membership and upon the community?

The government of a trade union is an evolutionary instrument, a process of adaptation to a changing environment. In 1920, trade unions were still struggling units definitely on the defensive; in 1946, they have become legally accepted into the body politic. They are objects of public concern, not only because of their size and power but also because the Government has sanctioned their existence through the National Labor Relations Act.

It is this act that set organized labor on a more equal footing with that of management in the collective bargaining process. It is unlikely that this process will ever again be completely free of government intervention. When a strike occurs in a vital industry because of a breakdown of the collective bargaining process, the ensuing paralysis to our economic life, penetrating to the most isolated village in our country, tends to compel the Government, in the interest of the public, to step in.

The trade union evolved as an instrument of democracy. Its function was to curb the autocratic tendencies of employers, and to compel a redistribution of national income so that the majority of the population might share it more equitably. The recent demand for government regulation of trade unions stems in part from the fear of their increasing strength on the part of those who have wielded power themselves for, lo, these many years. In part, however, it arises out of the weaknesses within the trade union movement itself—not just the fallibility of leadership, but the very government of the trade union which has grown so large that it has

lost sight of the democratic process. "The problem is to achieve internal democracy without hamstringing leadership."¹

GOVERNMENT WITHIN THE UNION

The government of a union involves not only such matters as the rights and obligations of officers, the distribution of financial control, and the admission of members, but also such policy matters as the making of agreements with employers, the minimum requirements as regards wages, hours, and working conditions, the permission to arbitrate, and so forth.² The locus of power is of direct concern not only to the membership of a trade union but also to the general public. This is true of all social institutions in our democratic society, whether it is a corporation, a municipality, or a social agency. Does the power to make decisions emanate from the rank-and-file membership, from a delegated authority, or from a self-perpetuating group?

In an excellent study made by Joseph Shister of 167 national unions,³ the author notes that the locus of authority varies in different unions depending on the nature of the industry as well as other factors. The government of most unions is organized on a national, district, and local level. The national organization usually is concerned with broad questions of policy, constitutional changes, organizing campaigns, and general strikes. However, many national unions also determine minimum wage scales and working conditions. The so-called dictatorial policies of James Petrillo, president of the Musicians' Union, are constitutionally provided for

in the by-laws of the organization. Traveling orchestras and traveling bands had to be centrally controlled, since there was the danger that these union members might undercut wage scales and conditions in the communities which they visited. The Bill Posters and Billers' Alliance and the Theatrical Stage Employees provide for similar centralization of control. The local administration usually controls dues collection, initial grievance cases, and participation in city politics.⁴

TREND TOWARD CENTRALIZATION

The trend toward centralization of control may not be merely a reflection of the nature of the industry: it may arise out of the relative strength of the trade union and the employer's organization. Most unions work to achieve industry-wide collective agreements. The centralized power of the United Mine Workers' Union arises from the fact that it has succeeded in maintaining uniform working conditions in a major part of the bituminous coal industry by signing separate agreements all of which expire on the same date.

Centralization of power has also evolved functionally in the matter of strike control, in the administration of benefit features, and, during World War II, in the preparation of mountains of legal data and briefs for wage cases coming before the War Labor Board. Such centralization comes with increased size of the union and complexity of its functions.

The major problem, therefore, is whether the locus of power needs to be vested in an individual, making possible the accusation of "labor bossism," or whether it can be vested in an executive group subject to rank-and-file elec-

¹ J. B. Hardman, "Points for a Union Code," *Labor and Nation*, Vol. I, No. 5, April-May 1946, p. 7.

² Joseph Shister, "Trade Union and Government," *Quarterly Journal of Economics*, Vol. LX, No. 1, Nov. 1945.

³ *Ibid.*

⁴ American Civil Liberties Union, Pamphlet, *Democracy in Trade Unions* (New York, Nov. 1943), p. 41.

tion and control, in order to maintain the spirit of democracy.

The procedure from "sovereignty" of unions in their respective industries, in our closely knit social-economic life, has become no less a threat to economic and hence to social security within the Nation than the recognition of unlimited national sovereignties in international relations presents to the building of international security and peace.⁵

The publicity surrounding autocratic practices within trade unions has led to the demand for government regulation of union elections, union finances, and union incorporation. Just how much this type of regulation will accomplish has never been realistically studied. It is significant that trade union members, like citizens of any community, take their responsibilities seriously only in emergencies. As long as their officers "deliver the goods" in terms of high wages, short hours, and good working conditions, there is a tendency on the part of the rank-and-file membership to accept the decisions of their officers, not to attend union meetings except under compulsion (either fines or threat of suspension), and passively to carry the union card.

THE NATIONAL CONVENTION

The national convention is the representative device by which officers receive endorsements for past actions and approval of future policies. The frequency of such conventions is generally provided for in the union constitution, and ranges from one to four years. In practically all of the national unions affiliated with the CIO, the convention is held either annually or biennially. In a world of rapidly changing economic conditions, it may well be conceded that more frequent "reports to the Nation" are desirable.

⁵ J. B. Hardman, "Dear Walter," *Labor and Nation*, Vol. I, No. 5, April-May 1946.

However, even the convention may not be truly representative, because of the financial inability of many locals to send delegates. Thirty-eight of the 167 unions studied provide for the payment of expenses of delegates by the national organization. It may be difficult for the delegates so financed to oppose the policies of the national union administration in power. Rarely would a corporation select candidates for its board of directors who were antipathetic to the policy of the existing board.

The study made by the American Civil Liberties Union of democracy in trade unions set up certain guideposts for evaluating trade union democracy: (1) whether members have a genuine opportunity to take part in the formulation of major decisions; (2) whether opposition groups have a real chance to present their case; (3) whether officers are strictly accountable for their work in carrying out policy decisions and are required to submit full reports to the membership; (4) whether chief executive officers are tested by open and honest elections at regular intervals.

ELECTIONS

The right of union members to review the conduct of their leaders and to approve or disapprove is essential, and yet dissent in union elections is the exception rather than the rule. At the recent national convention of the United Automobile Workers, the delegation which cast the decisive vote electing Walter Reuther to the union presidency cast a ballot heard round the world.

Increasing centralization of power in trade union leaders may result in their ability to entrench themselves in office and eliminate opposition movements. Frequently this development is aided by the apathy of union membership. Again, this centralization may be due to the power of the administration. Free elections require freedom of assembly,

freedom of press, and an honest ballot count. If the administration of a union has the right to brand any opposition slate a "dual union movement" and apply the constitutional penalties to the members of that slate, as the president of the United Mine Workers did in 1942 and 1943 to block opposition from District 5 of his union; if the union president has the right to appoint credentials committees and general organizers and, furthermore, tellers to count election and referendum ballots, it is apparent that an authoritarian president can cause the voice of rank-and-file union membership to become a very "still, small voice" indeed.

Philip Taft, in his study of opposition to union officers in elections,⁶ studied the elections in seven unions from 1910 to 1941. There were 764 local and national offices filled. Of these, 634—all but 17.2 per cent—were filled without opposition. Sixty-three of the offices were presidencies of local and national unions. Of these, only nine (14.3 per cent) were contested. Mr. Taft points out that the lack of opposition to re-election had no relation to the method of election, since elections occurred at conventions or by referendum ballot. What type of governmental regulation could remedy this problem?

The power of expulsion of dissident union members by presidents of local or international unions is a dangerous power unless some impartial court of appeal is provided. A recent report of the CIO⁷ indicates that all union members of the CIO have the right to a hearing before they can be expelled. All but two unions provide for the right to appeal to the convention before ex-

pulsion. The structure of democracy is present in the constitutions of these unions. No public legislation could create more safeguards for the rights of the individual worker. But the democratic spirit is another matter.

SALARIES OF UNION OFFICIALS

There has been a tremendous hullabaloo about the salaries of union officials. When the union was a struggling organization, officials were inspired to sacrifice their lives for the cause "plus expenses." Now that so many of the unions have achieved large membership and strength, union officials are accused of aping corporation officials in the size of their salaries as well as their desks. Two-thirds of all CIO unions pay top salaries of \$6,000 a year or less. The United Automobile Workers union pays its president \$9,000; the Amalgamated Clothing Workers, \$15,000; the Retail, Wholesale and Department Store Employees, \$10,000; and the United Steel Workers, \$20,000.

In the AFL unions the presidents of the International Longshoremen's Association, the United Mine Workers, the American Federation of Musicians, and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, receive salaries of more than \$25,000 a year plus extremely generous expense accounts.

Many unions feel "that the prestige and effectiveness of their officers are enhanced if their salaries approximate the salaries received by the employer representatives with whom they deal."⁸ Practically none of the salaries of presidents, either of the AFL or of the CIO, approximate the incomes of the presidents of corporations in the same industries.

It is fundamentally an ethical problem that disturbs the public with refer-

⁶ Philip Taft, "Opposition to Union Officers in Elections," *Quarterly Journal of Economics*, Feb. 1944.

⁷ *The Truth About C.I.O.*, Publication No. 130, 1946.

⁸ Florence Peterson, *American Labor Unions* (New York: Harper & Bros., 1945), p. 115.

ence to trade union salaries. Should organizations which are dedicated to the principle of securing a more equitable distribution of the Nation's income among the masses of workers pay their leaders salaries which are out of proportion to the wages which the workers themselves receive? However, since the public is not equally horrified at the salaries and bonuses of corporation presidents, even though the corporations in question have paid no dividends to stockholders for several years, one wonders.

DUES, INITIATION FEES, AND ASSESSMENTS

Union members support the activities of their organizations through the payment of dues and initiation fees. Special assessments are levied for some special activity of the union. Local unions collect these funds either directly from their membership or by means of the checkoff. The size of the initiation fees and the dues has become another matter of concern, because such fees and dues have been in some unions the device by which the union has developed a monopolistic control over a limited labor market and its supply.

The members of skilled-craft unions charging initiation fees of \$50 or over are very few indeed. Most of the AFL unions charge initiation fees of from \$10 to \$25. Most of the CIO unions charge initiation fees ranging from \$2 to \$10.

Unions which charge relatively high fees regard their initiation fees as fines as well as a means of membership control. They maintain that the old members who have contributed many years to their support have enabled the unions to obtain higher wages and better working conditions than would have existed if there had been no unions.⁹

⁹ Peterson, *op. cit.*, p. 123.

The older member is in reality asking the new member to share the costs of the cumulative gains of the past.

Many national union constitutions specify the amount of dues which locals may charge. They may even specify a minimum and a maximum. The problem arises when the local union is unrestrained and abuses its privilege to collect dues by "milking the community cow." When corporations were making money on war contracts through the famous "cost-plus" plan, many local unions, too, hopped onto the money-making band wagon and charged high initiation fees and dues to new workers.

In the study which Philip Taft made¹⁰ of the 250 locals from which material was available, all but nine brewery workers' locals were affiliated with the AFL. Dues in these 250 locals ranged from 75 cents per month charged by a local of brewery workers to \$7.00 per month charged by a local of electricians. The modal unit was \$2.00 per month charged by 68 local unions. Three dollars a month was charged by 39 locals. The median falls between \$2.35 and \$2.50 per month.

It is the practice of almost all CIO unions to limit their dues to a maximum of \$1.50 per month. Approximately 50 per cent of these dues are forwarded to the national organization to support its nation-wide activities.

As Mr. Taft points out, dues and initiation fees vary with different unions. Highly skilled trades tend to have high contributions because they provide a variety of benefits to their members. Some unions use their dues as a device for limiting their membership. The more recently organized unions pay no benefits, and their dues are accordingly lower.

¹⁰ Philip Taft, "Dues and Initiation Fees in Labor Unions," *Quarterly Journal of Economics*, Feb. 1946.

FINANCIAL RESPONSIBILITY

The matter of keeping financial accounts and forwarding such accounting to union membership at regular intervals is of public concern. The campaign for compulsory incorporation of trade unions has been waged in the past on the necessity of holding the union responsible for its financial activities, including financial injury which may be incurred by corporations which are being organized or where workers are on strike. The unions have claimed, and rightly, that in the antiunion atmosphere surrounding the development of the American trade union movement, such incorporation might result in stripping the union bare of its financial assets by subjecting the union to a series of legal suits.

Almost all CIO unions and most AFL unions submit periodic financial reports to their membership. Almost all unions require an auditing of funds at least once a year. In fact, most of the constitutions specify that this auditing be done by certified public accountants. However, there is little difference between a corporation statement and a union statement: to the layman it represents a balance of assets and liabilities! The union member may be completely apathetic to the financial

statement unless he knows how to read it and unless it is given in such specific detail that it tells its own story.

DEMOCRATIC UNIONISM

Emil Rieve, president of the Textile Workers Union, CIO, in an interview appearing in the *New York Times* of June 18, 1946, declared that organized labor in this country

must now accept responsibility not only to their membership, but to employers and the general public. The time is past when the big unions can be operated as private clubs without consideration of public opinion.

The public should be concerned with democratic unionism as it should be concerned with vitalizing democratic processes in all social institutions. Democratic unionism could best be accomplished by the union leaders' evolving a union code to preserve the rights of union members and achieve a concern for public interest. Failing this type of voluntary self-discipline, the Government will step in with regulation; but let us hope that such regulation will be based on a knowledge of the history of and the reasons for trade union practices, rather than on a hysterical fear of the growing power of the unions.

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Jurisdictional Disputes

By PHILIP TAFT

JURISDICTIONAL disputes between unions are, from the public point of view, the least justifiable. Neither the employer nor the public has any interest in the controversy. It is a family quarrel which may impose severe losses on other workers and the public without yielding any gains to labor. This can be seen from the accompanying table.

organize the workers in a trade if it be a craft union, or it may seek to enroll several but not all groups in the industry. The older literature classified this type as an amalgamated union, although "quasi-industrial" may be more descriptive. The industrial type of union would be one that accepts all workers—usually, but not always, exclusive of office employees.

Jurisdictional and Rival Union Strikes in the United States, 1938-45

Year	Number	Per Cent of Total Strikes	Workers Involved	Per Cent of Total Strikers	Man-Days Idle	Per Cent of Total Man-Days Lost Through Strike
1938	150	5.4	34,513	5.1	851,591	9.5
1939	156	5.9	49,539	4.2	636,634	3.4
1940	158	6.3	26,641	4.6	208,808	3.1
1941	272	6.3	155,322	6.6	1,355,317	5.9
1942	159	5.2	67,272	7.9	415,795	8.8
1943	130	3.6	37,278	1.9	199,603	1.5
1944	159	3.3	95,889	4.5	815,855	9.4
1945	149	3.3	135,600	4.5	1,188,400	4.9

Source: Annual compilations in *Monthly Labor Review*.

A union may be limited to a single plant or to a wider area. Plant unions are usually organized on a vertical basis; that is, all workers employed in the plant will be potential or actual members. No dispute over jurisdiction can, under these circumstances, arise. In contrast, unions that operate in more than one plant must decide what type of worker will be brought into the organization. It is necessary to bear in mind that the membership of a labor union "is not made up from persons chosen at random . . . but is restricted to those engaged in a specified occupation."¹

To be more specific, a union seeks to

¹ Nathaniel Ruggles Whitney, *Jurisdiction in American Building-Trades Unions* (Baltimore: Johns Hopkins Press, 1914), p. 12.

TERRITORIAL JURISDICTION

Unions that are not limited to a single plant will usually extend their territorial jurisdiction to the United States and Canada. Most unions affiliated with the American Federation of Labor or the Congress of Industrial Organizations regard their territorial jurisdiction as coterminous with the United States and Canada. International unions are usually made up of districts and locals which are chartered and are subordinated to the international union. Locals are allotted a specific territory. For example, Local No. 396 of the International Brotherhood of Electrical Workers has "jurisdiction over all persons actively engaged in the installation of and splicing of cables of every de-

scription in Boston, Massachusetts and vicinity."²

International unions may limit a particular area to one local union, but whenever two or more locals are chartered in one community, the possibility of jurisdictional disputes arises. This type of dispute is, however, not very common, for the international is usually able to step in and force an agreement between its subordinate locals. While not common, disputes between locals in the same union are not unknown. Recently a dispute between two New York locals of the bakery workers' union led to a strike, and differences over territory between locals in the hod carriers' and building laborers' unions led to a recent strike. The great majority of jurisdictional disputes can, however, be traced to other causes.

TRADE JURISDICTION

In addition, unions claim trade jurisdiction, which, in fact, complements their "right" to organize workers in a certain territorial area. In fact, trade jurisdiction is the claim made by a union to the right to control work and workers in a given territory—usually the United States and Canada. Trade jurisdiction is the converse of territorial jurisdiction, for the former implies the right to organize given workers in a territory. The right presumably excludes other unions from seeking to enroll workers performing the same type of work. Thus the constitution and by-laws of the Building Service Employees' International Union, AFL, states: "The International Union shall be composed of and have jurisdiction over . . . male and female, or those eligible for membership who are employed in the maintenance, upkeep or servicing of all private and public buildings. . . ."³ The

type of worker over whom the union claims jurisdiction—the exclusive right to organize—is specified. The Boot and Shoe Workers' Union, AFL, merely states that the union "shall be composed of male and female boot and shoe workers organized in local unions or as members-at-large."⁴ The United Steelworkers of America, CIO, defines its jurisdiction as all "working men and working women, regardless of race, creed, color or nationality, employed in and around iron and steel manufacturing, processing and fabricating mills and factories."⁵

DEMARCATIION DISPUTES

As each union carves for itself—with the approval of the central body with which it is affiliated—a given trade area, a dispute between unions may arise when more than one union claims the same jurisdiction. The underlying assumption is that the union's trade area can easily be determined, and that members of the union have the right to all available work within this area. Unions are very determined to control what they regard as their work jurisdiction, for they regard such control as essential to the survival of the union. The feeling of proprietorship or vested right over a given task is reinforced by "scarcity feeling"—the notion that the amount of work available is limited. Consequently for a union to allow the transfer of its customary work to another group would mean a corresponding curtailment of its own work opportunities. The argument that the amount of work in the world is not fixed but is responsive to factors such as income and costs, and that jurisdictional disputes to the extent that they increase

Service Employees' International Union, A. F. of L., 1942, pp. 11-12.

⁴ Constitution of the Boot and Shoe Workers' Union, 1939, p. 4.

⁵ Constitution of International Union, United Steelworkers of America, C.I.O., 1942, p. 4.

² By-Laws of Local Union No. 396, Boston, Mass., 1942, p. 5.

³ Constitution and By-Laws of the Building

costs and introduce elements of uncertainty reduce the total amount of work, will not necessarily convince union members and their leaders that they should surrender parts of their job territory.⁶

Demarcation disputes usually arise over work which borders on two or more crafts belonging to the same central organization. Only those trades which are closely related or which perform work closely similar are likely to become involved in jurisdictional disputes. One source of demarcation disputes is the encroachment by a strong union upon the jurisdiction of a weaker one. Again, changes in industrial methods, machinery, processes, or materials may encourage jurisdictional controversies, for they furnish a basis for claims to given work by new union groups. A new material is introduced, and a union may claim the job on the ground that its members handle this type of materials. On the other hand, another union may claim the same work on the ground that its members have in the past performed the particular tasks.

An example is the controversy between the Sheet Metal Workers' Union and the carpenters' organization that followed the introduction of metal trim on buildings. Sheet metal workers based their claim on the character of the material, and the carpenters' union argued that "metal trim . . . replaced wood and that the tools and skill of a carpenter were required to install it properly."⁷ The acceptance of the carpenters' doctrine would guarantee forever that tasks once performed by one group of workers would never be transferred to others.

⁶ The notion of "scarcity consciousness" is described and analyzed in Selig Perlman, *A Theory of the Labor Movement*, New York: Macmillan, 1928.

⁷ William Haber, *Industrial Relations in the Building Industry* (Cambridge, Mass.: Harvard University Press, 1930), p. 157.

While jurisdictional conflicts are most common in the building trades, they are by no means limited to that industry. The introduction of linotype machines in printing offices led to a dispute between the International Typographical Union and the machinists' organization over the right to organize machinists. During their affiliation with the American Federation of Labor, the United Brewery, Flour, Cereal and Soft Drink Workers had a large number of disputes with the coopers, the operating engineers and firemen, and most seriously with the teamsters. After many years of conference and debate, the chauffeurs and teamsters were awarded to the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America. The brewery workers refused to accept the decision and secured a court order enjoining its enforcement. When the order was vacated, the brewery workers, rather than obey, withdrew from the American Federation of Labor.

One of the more serious of current demarcation disputes concerns the machinists' and the carpenters' unions. The dispute arose in 1913 because members of the United Brotherhood of Carpenters and Joiners were engaged in building, assembling, erecting, and dismantling machinery in machine shops, buildings, and factories. The machinists were awarded the work, but the carpenters disregarded the award. Finally, in 1943 the machinists by referendum voted to withdraw from the American Federation of Labor unless the raiding stopped. The Executive Council of the American Federation of Labor refused to intervene, and the machinists' union overwhelmingly voted not to pay its per capita tax until the American Federation of Labor defines the jurisdiction of the machinists' union so as to cover "erecting and repairing of machinery and repairing of trucks,

busses and tractors, and the President of the A. F. of L. notifies the Building and Construction Departments, A. F. of L. to respect the jurisdiction of the machinists."⁸ Not only did the American Federation of Labor reject this demand, but the Metal Trades Department has ordered machinists' locals ousted from metal trades councils and machinists organized in federal locals. This means approval of raiding of the machinists' union.

In the last year one of our largest industries, the making of motion pictures, was tied up over a jurisdictional dispute between several crafts and the stage hands. It led to mass picketing and violence, and only the intervention of the Executive Council of the American Federation of Labor put an end to this disgraceful episode. A similar settlement could have been made prior to the strike.

Insistence upon the exercise of a specific jurisdiction has led to serious abuses on the part of strong unions able to force their will upon industry. New York Local No. 3 of the AFL electrical workers was able to force the employment of electricians on factory-produced switchboards, even though there was no need for their services. More recently a dispute between Local No. 3 and the stage hands prevented the "televising" of the meetings of the United Nations at Hunter College, New York.

While demarcation disputes are most common among the skilled trades, the CIO has not entirely eliminated them. There have been jurisdictional disputes between the shipbuilders and the longshoremen over the organization of ship scalers; between automobile and agricultural implement workers over the organization of employees in plants producing agricultural machinery. The most serious, however, has been the dis-

pute between Harry Bridges' longshoremen's union, and the United Wholesale, Retail and Department Store Employees Union over organizing the warehousemen. This dispute reached a stage where Bridges was charged with sabotaging the Montgomery Ward strike conducted by his opponents.

SETTLEMENT OF JURISDICTIONAL DISPUTES

Under its constitution the American Federation of Labor is charged with the settlement of jurisdictional disputes. As in other respects, the American Federation of Labor has followed a policy of persuasion. Settlements are made through negotiation and conferences rather than by ukase. Negotiations between the lithographers' and the photo-engravers' unions have been conducted for more than twenty years, and between the teamsters and the brewery workers for more than twenty-five years. The American Federation of Labor has no means of expediting or enforcing its awards. Yet in many instances jurisdictional differences are solved by the Fabian tactics, although frequently in favor of the unions with the most power.

The American Federation of Labor has also encouraged the combining—amalgamation—of related trades, and the settlement of jurisdictional disputes without recourse to economic pressure. Departments, which are groupings of international unions operating in the same industry, have been organized partly to settle jurisdictional disputes. However, they have not been any more successful than the American Federation of Labor, as the strongest can usually have their way.

DUAL UNION DISPUTES

Demarcation disputes arise on the periphery of the union's jurisdiction, and do not involve the union's existence.

⁸ *Machinists Monthly Journal*, March 1946, p. 63.

A dual union dispute is usually regarded as the more serious and dangerous to the labor movement. A dual union is "an organization which claims to maintain itself as a body independent of, and usually rival to, another association controlling the same class of workmen and operating within the same territory."⁹

The term "dual" as applied by one labor organization to another implies illegitimacy, and is a term of opprobrium. Leaders of labor are convinced that "dualism" weakens the unity and power of organized labor and thus serves as an aid to the employer. "Where factions have broken away to form a more 'progressive' rival to the old union, the resulting fratricidal war, including mutual 'scabbing' has always led to an all-around defeat of labor, and to a total collapse of organization."¹⁰ It was these experiences over a period of more than fifty years that fashioned the views of the AFL on dual unions. Since the formation of the CIO, the claim that dual unions inevitably lead to the defeat of labor is no longer valid; but while conditions have changed, the attitude toward dual unions persists.

Opposition to dual unionism is based on fear that if the objectives of a dual union are achieved, the union whose jurisdiction is invaded will cease to exist. Consequently, these disputes are likely to lead to bitter and relentless struggles, with the invaded union using all its resources to ward off the threat.

Dual unions have usually arisen as a result of secession of a faction from the parent organization. Dual unions usually lose the support of other organized craftsmen in the same industry, city labor councils, and state federations of labor. Consequently few dual unions

have been able to survive and prosper over a period of years. One of the few exceptions is the Amalgamated Clothing Workers of America, which started as a secession from the United Garment Workers of America and was able to grow and prosper despite its nonaffiliation with the American Federation of Labor. This was due, however, to peculiar circumstances, and represents a special rather than a typical experience of a dual union. Therefore, while a dual movement may constitute a threat to the parent organization, the disadvantages of operating without the support of other labor groups have always tended to check dissident groups from leaving the parent organizations.

RIVAL UNION DISPUTES

Rival union disputes arise as a result of the existence of two central labor organizations each seeking to gain dominance over the economic movement of labor.¹¹ While the unions of the American Federation of Labor and those of the Congress of Industrial Organizations do not compete at every point, each side stands ready to invade the jurisdiction of the other. Unlike the dual unions, each of the rival unions has many affiliated organizations and a powerful central organization ready to support its members in a jurisdictional war.

Rival unionism is an exaggerated form of competing unionism, and may make the problem of discipline more severe. Rival unions stand ready to welcome dissidents who are unwilling to endure the discipline of another organization. The existence of rival central organizations may also lead to the setting up of "spite" unions, such as the automobile workers' organization

⁹ Whitney, *op. cit.*, p. 65.

¹⁰ Selig Perlman and Philip Taft, *History of Labor in the United States, 1896-1932* (New York: Macmillan, 1935), Vol. IV, p. 7.

¹¹ The definition is an adaptation of one by Walter Galenson, *Rival Unionism in the United States*, New York: American Council on Public Affairs, 1940.

affiliated with the AFL or the construction workers' groups once sponsored by District 50 of the United Mine Workers of America. Jurisdictional disputes between rival organizations do not lend themselves to slow and peaceful adjustment, for no impartial body whose decisions would be acceptable to both sides is likely.

The existence of rival unions creates the possibility of sudden and bitter jurisdictional wars, for unions affiliated with one central body will show no restraint in raiding the membership of a union affiliated with another. At present, the California food canneries are bedeviled by a controversy between an AFL teamsters' union and a CIO agricultural and food organization. Whichever union the employer signs with, he will be picketed and subject to harassment. Similar conditions are likely to follow the organizing campaign in the South planned by both the AFL and the CIO. In the invasion of new territory the rivalry between the two groups is likely to be most serious, for each will regard an accretion of strength to the other as a threat to its own security.

Rivalry between the AFL and the CIO was greatest at the beginning of the latter's existence, although circumstances may exacerbate their differences. As the unions originally composing the CIO had been affiliated with the AFL, the latter regarded the CIO as a rebel and rival movement, which meant that the most severe action against it was justified. Moreover, the AFL was inclined to judge the CIO by the experience of the past, which indicated that rival groups could not survive. The jurisdictional warfare between the two central bodies has, however, been minimized by the fact that the CIO unions have concentrated their efforts in organizing virgin territory, especially in the mass production industries where the AFL unions were not strongly en-

trenched. Yet the existence of two rival labor union centers creates the constant possibility of clashes between them.

LEGAL VIEW OF JURISDICTIONAL CLASHES

In *United States v. Hutcheson*,¹² the United States maintained that there

is no form of labor warfare so opposed to the public interest and to the interest of organized labor itself as the jurisdictional strike which stops the commerce of an employer who is trying to be fair to organized labor. An employer who finds himself the victim of such a strike is powerless. There is no concession he can make which will stop the attack on his business.

The court refused to accept this view.

So long as a union acts in its self-interest and does not combine with non-labor groups the licit and the illicit . . . are not to be distinguished by any judgment regarding the wisdom or unwisdom, the rightness or wrongness, the selfishness of the end of which the particular union activities are the means. There is nothing remotely . . . that differentiates between the trade union conflict directed against an employer because of a controversy arising in the relation between employer and employee, as such, and conduct similarly directed but ultimately due to an internecine struggle between two unions seeking the favor of the same employer.¹³

NATIONAL LABOR RELATIONS BOARD

From its inception, the National Labor Relations Board—acting under Section 9 (c) of the National Labor Relations Act—has been authorized to hold an election or inspect applications for membership with a view to determining representatives for collective bargaining. At first the Board refused to intervene in disputes between unions affiliated with the same central organization. At

¹² 312 U. S. 219 (1940).

¹³ *Ibid.*

present the Board will accept such disputes where the prospect of a resolution of the controversy is not great.

The survival and spread of the CIO have led to a recognition that it cannot be exorcised by the usual means. Labor leaders, especially on a local level, are forced to accept the reality of the CIO's existence and power. At present most differences between unions in the two central bodies are settled through representation elections conducted under the aegis of a state or Federal Government agency. Large-scale jurisdictional warfare is not likely except under conditions where each central group seeks to organize on a large scale the same industry or territory. Large-scale invasion of an industry organized by another union is not likely to be undertaken as long as unions are winning concessions and no widespread dissatisfaction with leadership exists. The existence of two rival unions does necessarily lead to mutual raiding, and may prevent the evolution of intelligent long-range policies not favored by a vociferous minority.

POSSIBILITIES OF AVOIDANCE

The most direct and perhaps the best method to avoid jurisdictional disputes would be the setting up, by labor, of interunion tribunals whose verdicts would be accepted by all claimants. But unless labor leaders become more responsive to public opinion than they have been in the past, they will continue to

disregard adverse decisions if they feel that their unions are powerful enough to ignore them. Therefore, intervention in these family quarrels is essential and justified, for the unions themselves have failed to provide a remedy.

As one measure, unions that fail to abide by the results of an impartial election for representation in collective bargaining might be denied their rights under the labor acts. However, the worst offender in jurisdictional disputes—the carpenters' union—seldom requires the support of government boards for establishing itself as collective bargaining agent. Therefore more positive action could be taken against family quarrels—outright prohibition of such disputes. While no one can be forced to work, the sustaining of a strike requires certain organized and directed activities. They could be prevented when the walkout is caused by jurisdictional differences among unions, if necessary by court order.

To maintain that Government is powerless would be a counsel of despair. Even a cursory acquaintance with labor history shows that even the most arrogant of labor leaders—John L. Lewis—was, prior to 1933, pleading for understanding and co-operation by industry, and, incidentally, beseeching government help. The Government can deal with jurisdictional disputes by outlawing the activities that are necessary to the carrying out of a jurisdictional strike.

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Interfederation Warfare and Its Prospects

By AARON LEVENSTEIN

THE leaders of the American Federation of Labor and of the Congress of Industrial Organizations think and act on the assumption of a permanent division. Intent on self-preservation, they are not thinking about unity but about which of the federations is going to win dominance in America. They are more realistic than the commentators who see all the benefits of unity and ignore the obstacles to its achievement. To begin with, the individual unions see a threat in unity—a danger to their own structure and to the status of their own organization. For the public, unity means simply a merger of the Executive Council of the AFL and the General Executive Board of the CIO; for the union leader, unity means a merger of his international with another international, which cannot be accomplished until the most complicated jurisdictional tangles are unsnarled.

ORIGIN OF THE DIVISION

When the CIO was formed as a committee within the AFL, the purpose was largely to organize the mass production industries which the old crafts had been unable to unionize. Inside the Executive Council of the AFL, John L. Lewis of the United Mine Workers of America, David Dubinsky of the International Ladies' Garment Workers' Union, and Charles P. Howard of the Typographers—all industrial unions—fought vainly for a program of industrial organization that would bring unionism to the automobile and steel industries. In 1934 they succeeded in getting recognition for a token industrial unionism in the automobile industry, but made little real headway. When the 1935 convention of the Federation rejected their

plea and insisted on the dispersion of workers among the craft unions without regard to industry, the Committee for Industrial Organization was set up. Its plans for organization of "the workers in the mass production and unorganized industries" were aimed at the formation of new unions to be affiliated with the AFL. But after considerable maneuvering by the Executive Council to discipline the Committee, the split was formalized and rival unions were set up.

From that time on, the bitter warfare has raged, spreading from one industrial front to another. The restoration of unity would now require the pacification of unions which clash at countless points in our involved business structure. And the difficulties are heightened, not minimized, by the passage of time. As our technology develops rapidly and established lines of jurisdiction grow more blurred, the potential points of conflict are increased. Before the war, the gradual introduction of new industrial techniques and processes to which unions could adapt themselves tended to keep the problem within bounds; but the quick changes required by the wartime conversion and now the peacetime reconversion have multiplied the areas of friction.

The result has been an intensification of the quarrel in an atmosphere of confusion. The issue is no longer simply a matter of a vertical union seeking members among craftsmen in the same plant, leading to a conflict between rival unions. Now the claims and counterclaims involve whole networks of unions, crisscrossing each other. For example, the United Automobile, Aircraft and Agricultural Implement Workers (CIO) finds itself in conflict with

the AFL's United Automobile Workers, the International Federation of Technical Engineers and Office Employees affiliated with the Metal Trades Department of the AFL, the International Brotherhood of Electrical Workers, and the International Association of Machinists (recently withdrawn from the AFL). The United Steelworkers are in conflict with the AFL's International Molders and the independent International Association of Machinists. The International Brotherhood of Electrical Workers of the AFL clashes with CIO's United Electrical Workers, the United Automobile Workers, the Utility Workers, the Retail and Wholesale Union, and the independent International Association of Machinists.

MECHANICAL IMPLICATIONS OF UNITY

Unity would mean, in concrete terms, that almost every international union in both the AFL and the CIO would have to reorganize, revise its membership lists, surrender some workers to another union, and in some cases acquire others. To be successful, the mergers would have to start with the creation of only one parent body. That might prove to be the least troublesome of the mechanical problems. A Green or a Murray might be prevailed upon to give up his presidency and take a subordinate position in the unified body or content himself with being pensioned off. Some vice presidents would lose their posts and go on to other tasks in the labor movement. Though difficult, that would not be impossible.

But when you move into the lower rungs of the labor hierarchies, the real trouble starts. Merging the international executive boards of directly rival unions would again mean edging some officials out of their prominent positions. A united federation, for example, would have to establish one international for automobile workers. The United Auto-

mobile, Aircraft and Agricultural Implement Workers of the CIO, being the overwhelmingly larger body, would probably have to absorb the AFL United Automobile Workers, which could get only minor representation. Certainly, it is unlikely that the smaller union—in this case, the AFL's—would welcome the absorption. Resolving the difficulties would necessarily mean the end of the AFL organization.

That was what happened when John L. Lewis' coal miners came back to the American Federation of Labor in 1945. The Progressive Miners of America, with about 35,000 members, had come into the AFL fold after Lewis' original departure to the CIO. His return to the House of William Green could be effected only over the vociferous if puny opposition of the PMA. When the remarriage was consummated, the PMA found itself outside the Federation.

The re-entry of the United Mine Workers into the AFL illustrates the obstacles. Because of Lewis' ability to pay per capita dues for 600,000 miners, the PMA was not a serious hurdle. The tightest knot that had to be cut was the existence of District 50, the all-inclusive section of the United Mine Workers which had members in almost every branch of industry. Scores of other AFL unions insisted on the surrender to the proper craft organizations of the game which Lewis had collected in poaching on their preserves. The relations between District 50 and the AFL crafts have still not been finally settled, and will raise many problems for the organization.

This operation was practical only because it involved one entering union. The AFL was willing to pay the price of temporary confusion because of the immense political advantages it could gain from Lewis' readmission and because of its need for Lewis' assistance.

in the impending war with the CIO. To go through that whole process simultaneously with a score of unions would mean a labor Tower of Babel—whether unity came through the return of the CIO to the AFL or the formation of a new body.

For instance, the merger of the AFL and the CIO would raise the question: What becomes of those members of the United Electrical, Radio and Machine Workers, the United Automobile, Aircraft and Agricultural Implement Workers, and even the United Retail, Wholesale and Department Store Employees, whom the International Brotherhood of Electrical Workers claims? For more than a generation, the AFL could not resolve the jurisdictional dispute between the teamsters and the brewery workers, who recently left the AFL as a result of the controversy and joined the CIO. Certainly the powerful teamsters' union would insist on its original position, and in addition would demand the continued membership of the workers it had wrested from the CIO's Food and Tobacco Workers, Retail and Wholesale Union, and the International Longshoremen's and Warehousemen's Union. In addition, it would insist on the surrender to it of the other workers in the same occupations whom these unions had organized. It is hard to believe that either side would give of its flesh and blood.

INHERENT CONFLICTS

But even if this seemingly insuperable obstacle were overcome, the fight for political control within each newly united international would probably wreck the organizations in their conflict with management. No other struggles are so keenly fought as those in labor unions. Even with the comparative homogeneity that exists in each organization now as a result of the AFL-CIO schism, the intrafederation conflicts

are numerous, frequently vicious, almost always bitter. This would surely be compounded if the AFL and the CIO were brought under one roof.

Discussions of the continuing war between the AFL and the CIO invariably refer to the fact that the industrial-versus-craft issue, on which the split was based, is less significant today than it was originally. The AFL has veered from its old advocacy of strict craftism, under the pressure of CIO organizing activities and successes. At the same time, the CIO has found that in many situations and with certain groups—for instance, white-collar workers—vertical unionism is not always the answer.

But to assume that this weakening of the original policy lines that divided the AFL and the CIO means greater closeness between the two groups is to forget the long history of schisms. Original issues disappear, but new ones take their place. Old attitudes wear thin, but new ones evolve from them, and in turn become barriers. Indeed, the dwindling of old prejudices seems to generate a new momentum toward divisiveness. This has happened in the war between the AFL and the CIO, political questions now taking the place of the original economic issues.

POLITICAL POLICIES

Even if factional *labor* differences could be overcome, the *political* character of the CIO and the lack of it in the AFL would remain between them. This is not to say that the CIO is a political organization, but it has pursued clearly defined political objectives, both in the activities of its national organization and in those of the individual affiliates. The CIO's Political Action Committee has partially replaced the industrial-versus-craft issue, even where the two organizations are able to agree on the need for supporting particular candidates.

Outstanding among the quarrels between the AFL and the CIO has been a basic difference between the two organizations. The CIO, born in the early New Deal era, grew up with the philosophy that government assistance could lay the foundations for a strong labor movement. The AFL, on the other hand, in a much longer history, has rooted itself in the old individualistic philosophy. It has looked with a wary eye on government intervention in labor disputes. It has not yet fully cast off its suspicion of government action on wages, hours, and working conditions, fearful that if the state has the power to set minimum wages it can fix maximums. To be sure, the AFL has not shown any consistency. Though it fought for the eight-hour day, for a long time it eschewed social security legislation. Not until the depression of the 1930's put its membership on the economic rack did it support a system of Federal unemployment compensation.

The CIO, from the start, sought and was benefited by government assistance. This characteristic has led it in the strikes of early 1946 to bring about government intervention in wage disputes—a policy that the AFL deliberately avoided whenever it could. But the CIO's greater dependence on government inevitably compelled it to take a more aggressive political role than the AFL, which continues to follow the Gompers policy of rewarding its friends and punishing its enemies by transient endorsements from year to year.

As a result of its political policy, the CIO has had a greater public effect on elections, and has enjoyed close relations with the White House and lesser repositories of government power. Throughout the Roosevelt administration—except for the period of Lewis' antagonism to Roosevelt between 1937 and his surrender of the CIO's presidency in 1940—the CIO was virtually

a labor committee for the national Democratic Party, a status that was solemnized in 1944 by the organization of CIO-PAC. And even the fact that the AFL strongly supported Roosevelt did not override the political hostility between the two movements or prevent political philosophy and tactics from remaining a divisive issue. For instance, the AFL's weekly clipsheet denounced the PAC as "the strongest antilabor force in America."

THE ISSUE OF COMMUNISM

This conflict over political tactics and philosophy would not cut so deep between the two movements were it not for the existence of another political trend inside the CIO. As long as a significant number of Communists or fellow travelers participate in the policy-making bodies of the CIO, the AFL will not sit in the same councils with its rival. Though the CIO is in no sense a Communist organization, as is frequently charged by the AFL, the General Executive Board does include left-wingers like Harry Bridges of the International Longshoremen and Warehousemen, Michael Quill of the Transport Workers, Julius Emspak of the United Electrical and Radio Workers, *et al.* William Green will never break bread with them. Only if the CIO were to cast them out could peace be restored, and Philip Murray under no circumstances would make that sacrifice. If he were to return to the AFL, it would be only on the basis of bringing with him the fullest possible strength. As a result, Murray would insist on the return of the left-wing unions along with the CIO—a possibility that could be realized only if the unions themselves changed their leadership.

This problem is complicated, too, by the fact that in the continuing AFL-CIO strife, the former is interested in

using the Communist issue as a weapon. Besides its real aversion to Communism, however diluted it may be in the CIO by the presence of an overwhelming non-Communist membership, the AFL finds it useful to exaggerate the left-wing characteristics of its rival. When it launched its southern organization campaign in competition with the CIO, the AFL flatly denounced its rival as communistic. Actually, the CIO unions involved in the drive are among the most anti-Communist. The Textile Workers Union, for example, is led by Emil Rieve, who is anathema to the *Daily Worker*. The United Steelworkers of America, Murray's own union, has bluntly told off Communist efforts to influence CIO policy. At the outset of the campaign, Van A. Bittner, commander in chief of the CIO forces in the South, publicly rebuked Communist efforts to participate in the drive.

Nevertheless, the AFL's insistence that the CIO is Communist pushes the two organizations farther apart. This phase of the internecine war has even reached international proportions. The AFL continues to demand that it be the sole representative of American labor in the International Labor Office; the CIO functions in the World Federation of Trade Unions, led principally by the Russian and British unions, to the exclusion of the AFL which used to be the American member of the prewar International Federation of Trade Unions.

At the same time, inside the CIO the Communists represent a strong minority blocking any genuine move toward unity. They realize that a unification of the two organizations would leave them submerged as a hopeless minority, removed from all influence in the policy-making bodies. They are aware, too, that the AFL's minimum price for peace is their elimination.

What makes the prospect of unity in any foreseeable future hopeless is the

fact that unity with the CIO would be acceptable to the AFL only if left-wing influence were eliminated in significant unions. These include: the United Electrical, Radio and Machine Workers; the Transport Workers Union; the National Maritime Union; the International Longshoremen's and Warehousemen's Union; the American Communications Association; the International Union of Mine, Mill and Smelter Workers; the International Woodworkers of America; the United Office and Professional Workers; the United Farm Equipment and Metal Workers; the United Furniture Workers; the United Public Workers; and lesser unions. In many instances, local unions are also in left-wing hands, and the AFL would not welcome them into a common federation as long as they were tainted.

The CIO's resistance is natural. As of 1944, the left-wing unions named here claimed a membership of more than a million. Philip Murray would not dare to enter a united labor organization if the CIO had to check its guns or any sizable portion of its membership at the door. Without its left-wing unions, it would be a futile minority in the new organization, with less proportionate strength than the original Committee for Industrial Organization in 1935.

UNDEMOCRATIC PRACTICES

And just as the AFL bars admission to left-wing CIO unions, the CIO is adamant against merging its membership into organizations either actually or allegedly led by labor racketeers. The CIO will not run the risk of inducting its members into international unions which are still to rid themselves of undemocratic practices. Particularly important is the fact that in many AFL unions of highly skilled craftsmen, a second-class citizenship, with

lesser rights, is frequently established. The United Electrical and Radio Workers would never permit its members to be relegated to a Class B membership in a common international union with the AFL's Brotherhood of Electrical Workers.

That this question is vital is demonstrated by the recent inquiries of the independent National Federation of Telephone Workers, addressed to both the AFL and the CIO, concerning terms and conditions of affiliation. The AFL offered to create a special department for the 250,000 telephone workers inside the International Brotherhood of Electrical Workers, while the CIO promised complete status as an international union. Even in the heat of current events, with the prospect of unlimited intrafederation warfare ahead, the AFL could not cast off the weight of its obsolete tradition or interfere with the established practice of one of its important internationals.

CONDITIONS OF UNITY

Here, then, are the conditions that would have to be met if the AFL and the CIO were to unite:

1. Some of the leading members of both parent organizations would have to accept a secondary role in the united federation.

2. Leading members of the merging internationals, of the state, city, and regional councils, would have to be content with the same fate. A serious shake-up of membership in both organizations would have to occur, large sections and even locals of one union being transferred to the authority of another. A new compromise on industrial or craft organization would have to be worked out.

3. Agreement would have to be reached on political questions, with old-line party supporters like Hutcheson of the carpenters standing by the Repub-

licans, and Tobin of the teamsters standing by the Democrats, while CIO people favor maintenance of the Political Action Committee and even a labor party.

4. The CIO would have to purge or abandon left-wing unions, while the AFL would have to democratize its conservative internationals or force them to clean house.

This bald summary should be enough to indicate that there is no prospect, for a long time to come, of unity between the two organizations. The one serious move toward unity was made by John L. Lewis in 1942, when he was no longer head of the CIO. His gesture was as much a blow struck at the CIO as an attempt to effect accouplement. The first public disclosure of Lewis' maneuvers with Green and Hutcheson was enough to dispel every chance of its success.

The only remaining possibility for an early peace between the two labor federations is the development of a sharp attack on labor which would threaten its very survival—not merely curtailment of some of its established gains as did the Case bill and President Truman's emergency antistrike measures. No such large-scale elemental attack on labor's existence seems probable. And even if it does come, there is nothing to indicate that American labor leaders will be any wiser than their European brethren who continued their political and economic disunity even after the fascist threat became imminent.

We must therefore be prepared for a continuing war of attrition between the AFL and the CIO, with the tide of battle running in favor of one side first and then the other. Each is well armed, so that stalemate is likely to continue for at least another decade, given some sort of stability in the American economy and freedom from chaotic de-

pression. What would happen if the Nation were caught in a whirl of runaway inflation leading to sudden deflation is unforeseeable, except that it would wreak havoc with both organizations, which might then try to salvage what remained into a tight but smaller organization. Neither the AFL nor the CIO is thinking in those terms or attempting to plan for such an eventuality.

RELATIVE STRENGTH OF PARENT BODIES

The continuing warfare finds both groups well matched, though the sources of strength and weakness are different for each. The AFL has the edge in numbers and in the finances of the parent bodies and the international unions, which have not been weakened by the cost of lengthy mass strikes. The CIO, on the other hand, has a more aggressive membership which is capable of endurance in the face of determined employer opposition.

Both organizations are loose-knit, pursuing the principle of autonomy for the individual internationals. But in this respect the AFL is somewhat weaker, more infected by the virus of jurisdictional disputes, which sap the energy of the internationals, bedevil the Executive Council, and lead to periodic withdrawals from the Federation.

The CIO, however, suffers the greater weakness in terms of the instability of its membership. The conservatism of the AFL is an advantage in that its members, skilled craftsmen, are more mature, more steeped in union tradition and loyalty, cemented together by long years of contributing to union welfare and benefit funds. The CIO has not yet had time to build such vested interests for the individual rank-and-filer. Conservative institutionalism is not altogether a handicap.

Furthermore, the CIO has thrived on

its successes and has not known the taste of major defeat and the struggle for recovery. In contrast, the AFL has weathered many storms and will not be overthrown by any immediate setbacks, however serious. It is impossible to assess the sticking power of the CIO if it should fall on hard days, but if the experience of its American Communications Association is any test, the organization would do well to study the problem now. In 1944 the AFL defeated the Communications Association in the Western Union NLRB elections throughout the country, taking six out of seven units. In a desperate effort to recoup its waning prestige, the American Communications Association struck Western Union in New York City, only to suffer the one major disaster to befall the CIO in the first half of 1946.

But the biggest weakness of the CIO is its tradition of reliance on government assistance. A hostile administration in Washington, the whittling away of the Wagner Act, the enactment of restrictive legislation, the intervention of government in labor disputes for the purpose of assisting industry to complete reconversion, would set the CIO back on its heels.

On the other hand, the CIO has advantages with which the AFL so far has been unable to compete. The militancy and daring of the CIO unions has great appeal, particularly in organizing campaigns. The one factor on which the AFL can congratulate itself in this respect is John L. Lewis' reappearance as a member of its Executive Council. His presence in the company of the old AFL stalwarts is a major threat to the CIO in the stormy battles ahead.

SIGNIFICANCE OF INTERNAL DIFFICULTIES

If the two movements can resolve their respective internal differences,

they will continue to exist as powerful organizations, and the public will continue to be harassed by jurisdictional quarrels between them. Here, the AFL confronts fewer difficulties. There are no internal differences which are likely to congeal around any immediate issue that will lead to a fundamental break. In the CIO's internal difficulties, however, there are distinct possibilities of a rupture between factions. The division into right and left wings grows sharper as American and Russian foreign policies diverge.

Meetings of the CIO Executive Council are characterized by sharp debate between members on political resolutions relating to international affairs—withdrawal of American troops from overseas, United Nations policy, and so forth. In addition, relationships between and within the various CIO international unions are a seriously disturbing factor. The fight between the Longshoremen and the Retail and Warehouse Unions, between the Automobile Workers and the Farm Equipment Workers, between the Transport Workers and the Automobile Workers, are more serious than the AFL's jurisdictional disputes, if only because of the political connotations stemming from the leftwing-rightwing divisions.

The future of the AFL-CIO controversy will be influenced by the shifts in balance between the CIO's right and left. Recently the left-wing unions of the CIO moved towards a policy of merging their forces within the CIO. The International Federation of Architects, Engineers, Chemists and Technicians merged with the United Office and Professional Workers; the United Federal Workers combined with the State, County and Municipal Workers to form the United Public Workers.

Most significant development along these lines was the meeting of CIO's maritime unions—led by the Longshore-

men, the National Maritime Union, the American Communications Association, and the Inland Boatmen's Union—to form a federation within the CIO. Dissension within the National Maritime Union, due to a break between Joseph Curran and his former left-wing associates, further complicated the picture for the national CIO leadership, which is aware that the left-wing minority is attempting to consolidate its position by such tactical maneuvers.

How far the parent organization can go in intervening is no easy question to answer. In the fight for the presidency of the Automobile Workers between R. J. Thomas and Walter Reuther, the anti-Communist labor leader, Murray threw his weight against Reuther. But, like William Green of the AFL, he fears the consequences of such intervention in terms of spreading conflict, the stimulation of further differences, and the ultimate splitting up of his forces. In the maritime situation he tried to keep above the battle in which Curran was involved, overriding his own antipathy to left-wing control.

But whatever the ultimate outcome in the National Maritime Union, the federation of all CIO waterfront and seafaring workers means trouble inside and outside the CIO. The AFL has recognized the importance of the move and has set up its own maritime council, patterned after the Building Trades and the Metal Trades Departments and others. This action foreshadows what may develop into the worst conflict between the two organizations, for the unified AFL forces are a powerful combination, while the rival CIO groups are famous for their militancy. The strength of the Teamsters Union alone, without whose services the docks can be isolated, is enough to suggest that a virulent struggle is ahead.

At the same time, the friction between CIO leaders grows greater. Mur-

ray's support of Thomas in the United Automobile Workers has pitted him against Reuther, who now holds the presidency of one of the largest CIO unions. The disunity even bears directly on the collective bargaining of the CIO—witness the undercutting of the Automobile Workers' wage demands by the left-wing United Electrical Workers in the General Motors strike. Left-wingers would be quite content to see the Textile Workers Union, led by anti-Communist Emil Rieve, suffer defeats which would bring about a change in the union's leadership.

Further complicating the internal affairs of the CIO is the anomaly created by the late Sidney Hillman, head of the Amalgamated Clothing Workers. Cynical of Communist objectives though he was, his co-operation with the left-wing alienated right-wing CIO leaders, while his link with the Democratic Party made him suspect to the left. Mr. Hillman's successors inherit the problem.

THE SOUTHERN ORGANIZATION DRIVE

Much of the CIO's relative position in the labor scene depends on how well Philip Murray can keep his house in order. Both the AFL and the CIO are engaged in organization drives in the South, which will be the first real test of their competition in the post-war period. The CIO has entered into its "Operation Dixie" with invaluable propaganda resources, mainly the successes won in the recent round of strikes. The AFL is trying to counter the appeal of the CIO's recent increases by emphasizing the fact that its unions won substantial raises without involving the membership in costly, lengthy strikes. As against the wage patterns won by the CIO in automobile, steel, electric, and other industries, the AFL points to Lewis' triumph over the coal operators and charges that the CIO Steelworkers started the price inflation

by the demands it made and won this year.

As this jurisdictional fight gets under way, there will be increased clamor for government action, particularly where the national or community interest is directly injured. Both the AFL and the CIO will suffer further losses in public esteem, and the problem will be up continually for consideration by national and state legislatures. At the very least, the National Labor Relations Board will begin to play a greater part in policing the intrafederation disputes. It has already become involved in questions of closed-shop discharges arising from labor factionalism, and has launched a policy of protecting the right of workers to shift from one union to another on the eve of certification elections despite closed-shop provisions. At the most, legislation will undertake to strip unions of their Wagner Act rights if they engage in interfederation or jurisdictional disputes.

SUGGESTED STEPS TOWARD UNITY

In the last analysis, the achievement of unity must come from within the divided house of labor. Unionists themselves would have to pursue a systematic campaign along the following lines:

1. They would have to make unity an issue in each of the international unions and pass resolutions in their own conventions.

2. Delegates to the conventions of the parent AFL or CIO would have to press such resolutions persistently and not merely as a *pro forma* gesture.

3. Much preparatory work could be done by joint committees of the AFL and the CIO in the local communities—as in Kenosha, Wisconsin, for example, where common action is taken on many public and labor issues.

Government could make its contribution through the Department of Labor, which should seek out every possible ef-

fort to force the two organizations into joint committees. The Secretary of Labor should be instructed by the President to make reunification a top item on his agenda.

As for the general public, it is too disorganized to be able to bring sufficient weight on both organizations. At best, its influence can only supplement the pressure from inside labor and from government.

On the whole, however, the two federations can be expected to exist side by side for many years to come. With millions of workers still unorganized in the United States, it is possible for both

to continue to grow, periodically losing members to each other but retaining their own organizational identities. A unified labor movement could go much farther than either on its own, but as long as each has room for advancement, it will follow its independent course. Peace will not come even with the weakening of one or the other. The weak dares not join the strong lest he be swallowed; and when he is strong, he feels no need for unity. Only when they face a genuine issue of life or death will the AFL and the CIO be willing to grapple with the real mechanical difficulties which lie in the way of unity.

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Union Administration and Civil Liberties

By ROGER N. BALDWIN

BEYOND all other private associations, trade unions have a public obligation to practice democracy in their internal affairs because of their protection by law in organizing, in functioning free from employer coercion, and in bargaining collectively. Being now accorded these democratic rights, both the government and public opinion may properly exact of them, in turn, the practice of democracy in their own affairs.

This moral obligation, only recently imposed, has not yet been expressed in law, with the sole exception of the application to unions as to employers of fair racial practice acts in a few states.¹ But it is increasingly reflected in court decisions involving union practices in restrictions on membership, in expulsions, in elections, in unfair trials of union members, and in the denial of their rights under union constitutions. Proposals to supplement the uncertain jurisdiction of the courts by Federal and state statutes affording an orderly method of dealing with rank-and-file grievances against autocratic practices have gained increasing currency.

COMPARATIVE DEMOCRACY OF UNIONS

A fair appraisal of the practices of American unions in conducting their inner affairs would show that on the whole they are as democratic as membership associations generally. Only a small minority may now be fairly charged with domination by racketeers. A somewhat larger minority are held in bondage by dictatorial officials too

¹ Massachusetts Ch. 368, Laws of 1946; New Jersey Ch. 25, Secs. 18: 25-1 to 18: 25-28, Stats. 1945 (Supp.); New York Ch. 118, Secs. 125-138, Laws of 1945. Cf. Indiana Ch. 325, Laws of 1945 (Commission has no enforcement powers).

firmly entrenched in union machines to be displaced. Some of the newer CIO unions have fallen under control of officials who owe their primary loyalty not to the membership but to the Communist Party, and who have succeeded in manipulating democratic machinery to capture power by a minority. Many unions democratically conducted practice racial, sex, or other discrimination in admissions to membership. Thirty-one unions exclude Negroes or segregate them;² twenty-five exclude women; a few exclude Orientals, and a few more exclude aliens. Many of the older and smaller craft unions set up arbitrary bars to the admission of new members in order to hold onto privileges for the old. These are the more conspicuous features of undemocratic practices in unions.

But the total number of undemocratic unions, judged by their general character, probably does not run to over 20 per cent of the national bodies, and covers considerably less than that percentage of all union members. Of the 13 million union members, not over 2 million belong to unions fairly characterized as undemocratic in essential practices. If this proportion appears to be high, it is certainly no higher than that of other voluntary associations. Comparisons with the known practices of business and trade associations, farm organizations, churches, and professional bodies would not show the unions to be less democratic.

But since the unions have won special protection in law, higher standards may fairly be demanded of them not only because of the public stake in in-

² For full list see Herbert R. Northrup, *Organized Labor and the Negro* (New York: Harper & Bros., 1944), pp. 2-5.

dustrial peace—so largely determined by the inner conduct of unions and their control of so many jobs—but because of the increasingly influential role of trade unions in politics. On the international as well as the national stage, the growing power of the unions as pressure agencies makes them crucial factors in preserving and expanding democracy.

RESISTANCE TO DEMOCRATIZING EFFORTS

Though the moral case for ensuring trade union democracy is clear, the practical steps to that end meet formidable obstacles. One such attempt made by the American Civil Liberties Union presents an enlightening example of the difficulties.

After many years of experience in aiding individual union members in court suits challenging unfair trials, expulsions, denials of membership, and dishonest elections, the ACLU's attorneys concluded that more general relief than that afforded by the courts was necessary. A thorough study of union practices was made by experts and published in 1943 in a large pamphlet under the title of *Democracy in Trade Unions*. It was sponsored by an array of economists and publicists long identified with the struggle for the liberties and rights of unions. The Civil Liberties Union itself had earned a sufficient reputation as a defender of labor's rights to speak without bias against unions. The study carried a series of recommendations for action, primarily by the unions themselves, who were urged to adopt "Bills of Rights" for all members based on the practices of progressive unions. But legislation was also recommended to ensure admission to membership without discrimination as to race, religion, nationality, sex, or political belief, and to provide for a review by a public agency of grievances by members against autocratic union

action. All legislative control of inner union affairs was opposed.

It was expected that so moderate a proposal would find a favorable response at least among forward-looking trade union leaders. Instead, it was met with either silence, resentment, or open hostility. The press, liberal journals, public officials, and labor economists applauded a document which proposed remedies thought to be long overdue. The labor leaders, with few exceptions, feared any legislation whatever, resented the criticisms of lapses from democratic principle, and advised the Civil Liberties Union to refrain from intruding in their domestic affairs.

Efforts were then made to introduce in Congress a bill embodying the major legislative recommendations, empowering the National Labor Relations Board to hear complaints that any union seeking certification as an exclusive collective bargaining agent denies to its members their democratic rights. The rights to be thus protected were specified. If violations were found, the Board was empowered to withhold certification until the practices complained of were corrected. No sponsor not hostile to labor could be found who would risk labor's opposition; some favorable to the proposal thought the time inopportune in the antilabor temper of Congress. It seems unlikely that congressional action will be taken in the near future, in view of union opposition and the confusion surrounding all legislation aimed at unions. As in the case of Fair Employment Practice laws, it seems far more likely that action will be taken in some states before Federal jurisdiction is achieved.

PRACTICE OF DISCRIMINATION

Not only this experience but others have tended to demonstrate that the trade union movement will not as a whole support efforts to achieve greater

democracy. Even the Fair Employment Practice legislation, endorsed in principle by the AFL and the CIO, has been resisted by the railway brotherhoods (when applied to them). One union, the Railway Mail Association, even carried to the United States Supreme Court its challenge to a New York statute penalizing race discrimination in union admissions.³ It lost. The Boilermakers' Union contested attempts to open membership to Negroes on a basis of equality, and was defeated in the state courts, which held that closed unions could not enter into closed-shop contracts.⁴

The anomaly of the endorsement of the Fair Employment Practice principle by the great federations and the resistance to it by particular unions is due to the lack of control by the federations over their constituent bodies. No uniformity can be achieved in practice. The CIO comes closer to achieving it, and in the struggle for racial equality in the unions it has taken vigorous steps to make practice conform with principle. A special committee exists to labor with recalcitrant or hesitant national and local unions. The AFL has made no such move, and the chief offenders against the principle are constituent unions of that body and the independent railway unions.

Failing voluntary action, it is evident that only the compulsions of law will accomplish the comparatively simple reform of opening unions without discrimination to all qualified applicants. With state commissions now established in Indiana, New York, New Jersey, and Massachusetts, and with statutes against discrimination in four others, it

³ *Railway Mail Association v. Corsi*, 326 U.S. 88.

⁴ *James Marinship*, 25 Cal. (2d) 746, 155 P. (2d) 343; *Williams v. International Brotherhood of Boilermakers*—Cal. (2d)—165 P. (2d) 903; *Thompson v. Moore Drydock Co.*—Cal. (2d)—165 P. (2d) 901.

seems quite possible to effect nationally the desired reforms.⁵ Since the laws apply to national unions operating in those states, and since the unions cannot discriminate there, they will be obliged to abolish discrimination altogether. The law will supplant union constitutions which bar Negroes, Orientals, women, and aliens. If and when these new laws are literally enforced, as the New York Commission, slow in getting under way, promises, the effect will be country-wide.

The same resistance to efforts to win democratic procedures has marked the unions in the courts, and compulsion has often been necessary to gain for the rank and file those rights which union constitutions presumably guarantee. Over three hundred cases have been taken to the courts in the last fifteen years by members or minorities in unions, charging failure to hold elections, unfair elections, expulsions without trial, unfair trials, diversion of funds, unwarranted suspension of locals by the national body, and abuses in work assignments. Despite the disinclination of the courts to intervene unless union rules were grossly violated, relief was given in a third of the cases, increasingly in recent years.

FACTORS IN UNION ADMINISTRATION

But it is not to be expected that either laws or the intervention of the courts will ensure the democratic rights of union members and applicants for membership. Compulsion is at present

⁵ *Kansas Ch. 265*, Laws of 1941 (denial of privilege of representation of workers in the unit); *Nebraska, Neb. Comp. Stat. (Kyle Supp. 1941)*, Secs. 48-801 (denial of closed-shop rights); *Pennsylvania, Pa. Stat. Ann. (Purdon 1941)*, Tit. 43, Sec. 211.6(1) (c) (denial of closed-shop rights); *Wisconsin, Wis. Stat. (1937)*, Sec. 111.06(1) (c) (denial of closed-shop rights). See also *New York, Civil Rights Law (McKinney)*, Secs. 43 and 44 (civil and criminal penalties against officers and others co-operating with them).

essential considering the transitional character of American unions, their great diversity, and their disunity. But it can accomplish only elementary reforms. The inner life of the unions depends on factors far more positive, growing out of the relation of unions to employers and government and to the economic pressures which determine their tactics. As long as unions were obliged to be rough-and-tumble fighters engaged in a struggle for existence against hostile employers, they were almost necessarily autocratic. Their fighting leaders were ruthless in suppressing dissenters and opponents. Now that the struggle between unions and employers has been transferred to the higher levels of legislatures and courts, the unions themselves tend to adopt more peaceful methods internally. As business institutions with large responsibilities, large properties and treasuries, they adopt a smoother pattern of conduct, under direction of officials who manage to continue in office for long terms and to deal fairly enough with the membership to avoid open revolt. Not infrequently political machines are created, conventions are controlled, and the rank and file are placated with the forms of democratic participation.

The economic pressures constantly surrounding unions also determine their tactics. Behavior in a period of unemployment is likely to differ considerably from that in a period when labor is in demand. Unions which would admit members freely in good times will put up the bars when jobs are scarce, to save them for those already in. In normal times the so-called "closed union" exists in a comparatively few skilled crafts controlling the job market. They accomplish their monopolistic results by fixing numerical limits to membership, by high initiation fees, or by the device of issuing working permits to applicants whom they refuse to take

in as regular members. Public policy based on the right to work demands that all qualified workers should be admitted to the unions in their trades, without prohibitive fees. Where the closed shop accompanies the closed union, as it usually does, the union becomes a complete monopoly.

Legislation to require unions to admit all qualified workers has often been suggested, but is open to so many objections that it is as undesirable in principle as it would be unenforceable in practice.⁶ But the courts may well afford the necessary relief to applicants denied membership, as they have done in several cases in recent years.⁷ Contrary to earlier cases which held that union membership was a privilege, not a right which the courts would protect, recent cases have tended to hold that a closed union may not enjoy the privileges of a closed-shop contract, for its effect is to deny the right to work of qualified men willing and anxious to join the union.

Aparently, neither law nor equity will accomplish the abolition of high initiation fees, which must therefore be left to processes within the unions. National unions, desirous of increased membership for additional revenue, tend to bring pressure to bear on their locals which limit membership to maintain wages and jobs. Apparently, the evils of the permit system in limiting regular membership must also be left to union discipline. Some unions already forbid it. Employers may also influence union policy against limitations on membership by insisting on clauses in contracts which keep a union open to all qualified applicants. The familiar old run-around that "you can't get a job unless you join the union, and you can't join the union

⁶ Note constitutional amendments passed in Florida and Arkansas in 1944, intended to "protect the right to work," but actually aimed at abolishing the closed shop.

⁷ See cases cited in note 4 *supra*.

unless you have a job" has been broken in scores of unions both by contract provisions and by fair procedures for training apprentices under union control. No intervention by law or the courts is likely to speed the process, though occasionally a government agency may aid, as did the War Labor Board in war industries.

STEPS TO ACHIEVE GREATER DEMOCRACY

The accomplishment of democracy within unions by union action depends on a complex of devices plus the spirit and determination of the rank and file to make democracy work. No set of constitutional guarantees will achieve results without that spirit, any more in unions than in our political democracy itself. Such a spirit is bound to vary in force and amount according to union members' sense of their need of their union. A United Mine Workers local, center of the economic and social life of a mining town, is far more democratic in spirit than a union of skilled workers in a secure closed-shop industry in a metropolitan city.

But no amount of rank-and-file spirit can effectively guarantee democratic practices or ensure the rights of members without fixed mechanics of participation and control. The more active and successful the union, the more certain are the struggles to control it and the sharper the controversies. Besides the devices common to all voluntary associations, unions require those made necessary by their relation to jobs. Requirement Number One is obviously the admission to membership of qualified workers without discrimination as to race, nationality, sex, or political belief. In cases of refusal by officials, appeal to the local membership should be assured.

The second requirement is protection against unfair suspension or expulsion,

if members are to be guaranteed complete freedom of action. That protection can be afforded only through written charges before a board not party to them, with the rights commonly associated with fair trial, and with appeal, when requested, to a separate and independent body or to the entire membership of the local. If still aggrieved after exhausting union procedures, a member should be able to carry his case to the civil courts without expulsion or penalty for so doing. Since most of the court cases brought by rank-and-file members have involved unfair expulsions, and since livelihood in so many industries depends on union membership, the procedure for bringing charges and conducting trials is the most crucial of the guarantees of members' civil liberties.

The third requirement is democratic participation by all members of a union local. The life of unions lies in the locals, source of all higher authority. Too often the responsible officials show no desire to organize meetings so as to sustain the interest of members, and too often members accept without question or challenge the leadership of officials. The more progressive unions hold regular meetings with notice of all business to be discussed, render full reports to the membership, and invite criticism and debate. In the case of large locals where discussion is necessarily limited, provisions for a referendum vote by mail on controversial questions have provided a degree of democratic response not possible in meetings. In the case of national unions, such referendum appeals to the membership have proved to be highly desirable adjuncts for ensuring a degree of democracy not obtainable at conventions.

COMMUNIST INFLUENCE

The problem of assuring greater democracy in unions has in recent years

been matched by the not inconsiderable problem of preventing the perversion of democratic procedures by a minority to gain control. This new phenomenon has arisen through the efforts of Communist Party members and fellow travelers in unions to capture leadership in the interest of their own political program and power. Alone of all political parties, the Communists practice these methods, though they have been imitated by other groups in efforts to defeat them. They have succeeded in controlling sixteen national CIO unions, many other local CIO unions, and some few locals of AFL international unions.⁸

The tactics are simple. Starting with a closely knit and disciplined group of members, the Communists develop a highly vocal minority leadership in opposition to the union administration. They then force compromises with them on program or offices, often winning key posts. With some influence established, the Communists, frequently denying their identity or loyalties, then proceed to wear down opposition. Out-talking and out-sitting tired members at long meetings, they manage to constitute themselves a majority and control decisions. One union official, determined to defeat this established tactic, is reported to have locked the door of the meeting hall after the members were assembled, and, displaying the key from the platform, announced that nobody would leave until the business was finished. Having a majority of non-Communists, he won. Either such drastic action or the counterorganization of the non-Communist majority, or decisions and elections by mail vote, would appear to be the only methods to overcome the perversion of minority control. Once in office, the displacement

of Communist officials, taking their program from outside the union, is exceedingly difficult, as the attempts to do so in many CIO unions have shown. They have not only the advantages of the ins, but outside aid and a unity unmatched by their opponents.

Fear of this political domination has led to drastic measures in the American labor movement. The AFL officially and most of its constituent international unions prohibit membership to known Communists. So, too, do some of the CIO international unions. They add provisions for the expulsion of proved Communists. Enforcement is difficult in view of the customary denial of Communist Party membership and the usual lack of proof, but the ban operates to minimize Communist maneuvers. It is, however, in principle highly questionable to deny union membership to any qualified worker because of political views and affiliations. It runs afoul of the Fair Employment Practice acts in the states, which properly include protection of political belief along with race, nationality, and religion.

But another union method of dealing with Communist attempts to control meets the issue fairly. It denies to Communists or those with presumed loyalty to the Communist Party the right to hold office. While membership is open to them as to all others, their dual loyalty is regarded as a sufficient disqualification for union responsibility. Members come to identify them and refuse them nomination. Experience shows that it is not always easy to accomplish that in the light of the devious methods employed by Communists, but errors can be, as they have been, overcome by provisions for removal from office.

Only constant vigilance by union leaders and the membership can prevent the spread of a political influence in the unions which becomes the more persist-

⁸ See Special Report, "Communism in Labor Unions," Research Institute of America, 292 Madison Avenue, New York City 17, 1946.

ent and aggressive as the struggle between the Soviet Union and the western democracies grows sharper. Already in many European countries and in South America the trade union movement has been delivered politically into the hands of Communist leadership, with far-reaching effects on government policy and international politics. Where a majority of union members are Communists, the process is inescapable. What is to be rigidly avoided is domination by a minority negating the majority will. No national union in the United States has a majority of Communist members or sympathizers, but sixteen CIO unions appear to be Communist-controlled. Few local unions have such a majority, but scores of them are so controlled. Both Communist control and resistance to it have increased greatly in recent years. Organic unity between the AFL and the CIO, so essential to a powerful democratic trade union movement, is largely impeded by the false leadership imposed by Communists on so many CIO unions.

No legal process can cure the evil. The courts cannot intervene where control is achieved not by violations of union rules but by perversion of them. Only non-Communist majorities in the unions can take the action necessary to ensure their own mastery.

POLITICAL ACTIVITIES OF UNIONS

Political issues in the unions have in recent years raised another conflict involving members' rights. Assessments for the support of particular parties or candidates have become common practice. Where they are voluntary, no rights are invaded. Where they are compulsory, they attack the members' freedom of political choice by forcing contributions to parties they do not favor. In some instances union funds have been appropriated for partisan po-

litical purposes. Some members have resisted and taken their grievances to the courts, which have sustained them against disciplinary action for nonpayment of assessments. The court ruled, however, in one case, that assessments might be properly levied for a purpose directly related to union welfare, namely, the unions' campaign in California against a referendum proposal to outlaw the closed shop.⁹

The increasing role of organized labor in American politics, both in campaigns and as pressure agencies constantly affecting government, accentuates the larger claims of the public on trade unions to live up to the democratic principles they profess. A majority of the unions do; but the minority which do not are powerful and conspicuous. Government compulsion and intervention should be limited to assuring non-discriminatory admission and to affording relief to members from violations of their rights. Beyond that, reliance must be placed on forces within the unions, and the pressure of public opinion for standards of democracy commensurate with the assured rights of the unions.

UNIONS AND NATIONAL STANDARDS

Those forces in the unions will continue to reflect the democratic standards and practices of American life generally. Tendencies to autocracy in politics and industry are quickly reflected in unions. The autocratic union matches the autocratic employer. With collective bargaining assured and union rights protected by government, the tendency is toward a more uniform stability and greater self-assurance. The unions' new sense of power and responsibility has even given rise to fears of what opponents call a labor dictatorship. If American unions, like the British and others, should eventually

⁹ DeMille v. A.F.R.A. (Cal. Super. Ct. 1945).

form the core of a dominant political movement, their behavior would be determined by the country's larger needs and their own inner democratic life, which would, as now, reflect the prevailing standards of the Nation.

The expansion of democracy in a world still tied so largely to autocratic institutions, new and old, will obviously depend greatly on the influence of the organized masses of the working people.

The growing number of socialist and labor governments and the widening world activities of the trade unions forecast a role unprecedented in the struggle for democracy. If American unions play an effectively progressive part, it will be to the degree that they respond to the highest principles of our traditions in their own organization and in applying them to a world structure of political and economic freedom.

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Union Security and Its Implications

By LOUIS STARK

UNION security in any of its phases is likely to be a thorny problem for a long time. Its implications go to the heart of employer-employee relations, to the question of intra-union democracy, and to the relations of government and unionism.

The broad sweep of unionism today is toward some form of the closed shop. That movement has been stimulated by government action, as will appear later. At the moment, one may perceive the force of the movement by a glance at a few figures.

According to the Bureau of Labor Statistics (Bulletin 829), approximately 10,500,000 of the 14,500,000 workers employed under collective contracts in January 1945 were covered by one of various types of union-status provisions, namely: closed shop, union shop, union preferential clauses, or maintenance of membership. In short, there were more than three times as many employees under union security provisions in January 1945 as were in the entire trade union movement in 1935.

VARIETIES OF UNION SECURITY

Union security may provide for the closed shop, the union shop, maintenance of membership, the preferential shop, or the exclusive bargaining shop.

A closed shop is one in which only union members may be hired and employees must remain members to retain employment.

Under the union shop, nonunion members may be hired but they must join the union after a certain time.

Where maintenance-of-membership provisions prevail, employees are not required to join the union, but if they do, they must remain in good standing as a condition of employment. Usually

there is an "escape" clause in these contracts whereby employees have fifteen days to decide whether they wish to join, remain in, or leave the union before the contract becomes effective. If the employee withholds his union membership within this period, he cannot lose his job. If he is in the union after the "escape" period, his failure to keep up his dues may incur expulsion and loss of his job.

In preferential union shops, union members are given preference in hiring and layoffs. The employer is not called upon to discharge those who do not join the union.

The exclusive bargaining shop is one in which the union is recognized as the exclusive bargaining agent for all employees, whether they belong to the union or not.

The closed shop and the union shop are sometimes synonymous in current usage. Contracts seldom call for the closed shop, but usually provide for the union shop.

OPEN SHOP VERSUS CLOSED SHOP

The signal for a concentrated industrial attack on the closed shop came in 1892 when the Carnegie Steel Company abandoned its friendly relations with the Amalgamated Association of Iron, Steel and Tin Workers and opened a struggle for the "open shop." This movement compelled unions that had been working under verbal closed-shop or union-shop agreements to demand such provisions in writing. The resulting resistance led to employer demands for the open shop, sometimes labeled "The American Plan." Too frequently the "open shop" and "The American Plan" terms merely meant the "closed shop" to union labor.

When the United States entered World War I in 1917, the National War Labor Board, set up to further industrial peace, was embarrassed by the "open shop versus the closed shop" issue, but refused to decide it. While the Board encouraged collective bargaining, it also—inadvertently—gave an impetus to the Employee Representation Plan which became industry's mainstay against independent unionism until the National Labor Relations [Wagner] Act was passed by Congress in 1935.

Until the Wagner Act became law, the closed or union shop existed in various trades as a result of mutual agreement of employers and employees. It made no difference whether a union had an overwhelming majority of members in a plant or whether it had a small minority; if, for sufficiently valid reasons, the employer was agreeable to a union shop, he made a contract and that ended the matter. But the Wagner Act deprived a minority group of the right to make a valid closed-shop agreement. By so doing, the new law involved itself in what is apparently a contradiction.

CONTRADICTION IN THE WAGNER ACT

The theory of the act is opposed to the idea that employees should be forced to join a union not of their own choosing. Thus, Section 7, which contains the positive statement of employee rights, and constitutes the heart of the act, says:

Employees shall have the right of self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection;

To protect these rights, the act established certain prohibitions on the

employer. These, known as unfair labor practices, included the following, in Section 8(3):

It shall be an unfair labor practice for an employer. . . .

By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. . . .

If the law had stopped there, obviously the closed-shop agreement would have been barred, since such a contract compels the employer to require that his employees join a specified union. But the law attached a proviso to Section 8(3) stating:

Nothing in this Act . . . shall preclude an employer from making an agreement with a labor organization . . . to require, as a condition of employment, membership therein, if such labor organization is the representative of the employees as provided in Section 9(a) in the appropriate collective bargaining unit, covered by such agreements when made.

Section 9(a) provides that representatives selected by the majority of employees shall be the exclusive representatives of all the employees.

This is where the apparent contradiction in the act developed. First, employees are given complete freedom to select and be represented by any union of their own choice. Next, the employer is told he cannot encourage (or discourage) membership in any labor organization. But then the exception is made, leaving the way open for the employer to encourage membership in a labor organization, and thus directly or indirectly prevent the employees from exercising their freedom of choice. In trying to solve this apparent contradiction the National Labor Relations Board has established the following principles:

PRINCIPLES OF NLRB

First, where there is a closed-shop contract, the employee must remain in good standing so far as his dues payments are concerned or else be subject to discharge. This is true at all times.

Second, if an employee becomes active in behalf of a rival union *at any time before the existing contract is nearing its termination date* (italics supplied), he is subject to suspension by the union and loss of his job.¹

Third, any employee may exercise his right to select a different bargaining agent *toward the end* (italics supplied) of an existing closed-shop contract provided he remains in good standing as far as his dues are concerned. This principle was established originally in the case of Rutland Court Owners and was subsequently sustained by the Supreme Court in the *Wallace case*.

However, in recent months, the Board has attached a string to this last-named principle which may come close to destroying its practicability. In the *Diamond T Motor Car Company case* (No. 13-C-2414) the Board discovered that an employee had become active in behalf of a rival to the contracting closed-shop union *toward the end* (italics supplied) of the contract period. Although this was permitted under the *Rutland Court* and *Wallace cases* the Board upheld the legality of the discharge. The reason assigned was that the company was able to show that *it had no knowledge of the real cause of the man's suspension by the contracting union* (italics supplied).

In previous cases there was evidence that the company knew why the employees were suspended. In the *Diamond T case* the Board found that ignorance of this fact constituted a valid defense against a charge of committing an unfair labor practice.

¹ Southwest Portland Cement Co. Case No. 16-C-119.

Under current board theory, the burden of proof seems to be on the individual employee who tries to exercise the rights guaranteed him in Section 7 of the act. If he has not kept track of the legal rulings of the Board, which may and do change from time to time, and does not know that he must advise the proper managerial authority of the real reason for his suspension by the contracting union, he loses his job, his seniority, and his security. This would seem to be an unusually stringent requirement, and it is difficult to see where it will leave the closed-shop issue.

ORIGIN OF MAINTENANCE OF MEMBERSHIP

The closed-shop issue which was settled during World War I by not being settled (by maintaining the status quo) was a sore point before and during World War II. The unions, having made vast gains between the wars, were no longer content, when the emergency defense period opened in 1940, to maintain the status quo. The National Defense Mediation Board, predecessor of National War Labor Board for World War II, was besought to grant the closed shop, but did so in only one case. Before the Board wound up its work, however, it had opened a field for compromise between the closed shop and the status quo which was to be a big factor in the work of its successor, the National War Labor Board. That was the maintenance-of-membership provision which it had recommended in the *Federal Shipbuilding Corporation* and other cases.

When President Roosevelt called his labor-management conference after Pearl Harbor, the problem of union status arose, and on December 23, 1941, the President cut the Gordian knot by decreeing that the NWLB would settle "all disputes" whether over the closed shop or what not. The employer mem-

bers had sought to obtain assent to a resolution stating that "the issue of the closed shop is not a proper subject for consideration. . . ." On this the conference deadlocked until the President acted in favor of the union contention. By this move, the problem of "union security" became one of the most contentious factors in the NWLB's proceedings.

On the one hand, public policy prevented the Board from granting the closed shop. (President Roosevelt had stated that the Government would not impose the closed shop.) On the other hand, the unions, having given up the right to strike during the war, pressed for some form of "security" even though it was something less than the closed shop.

The public members of the Board felt that a device that got the unions "over the hump" of recognition and moved toward greater responsibility would result in greater war matériel production, as it would tend to eliminate disputes over union membership and reduce turnover. In this way the maintenance-of-membership principle grew out of the Board's dilemma as between labor's demand for the closed shop on the one hand, and public policy and industry opposition on the other. It was frankly a compromise which did not suit either side, but as it developed, objection to it at times became less vocal by the employers, although toward the end they insisted on congressional disposition of the issue.

Since V-J Day the expectation of some labor and industry leaders have been fulfilled. There have been some costly strikes in which the security provision, inserted at NWLB direction, has been an important bone of contention. Among these strikes were General Motors, the Yale and Towne Manufacturing Company, International Harvester, and Western Electric.

MAINTENANCE OF DUES

The compromise worked out in these cases is typical of the tendency toward which the situation appears to be moving when stubborn strikes occur over this issue. Instead of requiring the employer to dismiss an employee who does not remain in good standing, the new clauses in some contracts provide for a checkoff of union dues. This means that even if an employee is ejected from a union during the life of an agreement, his dues continue to be deducted and the company is not required to dismiss him. This is maintenance of dues rather than maintenance of membership. It satisfies the employer because he will not have to dismiss a capable man who may have some difficulty with his union.

The maintenance-of-dues clause has been insisted upon particularly by the large oil companies and refineries which have established pension, health, and other employee benefit schemes. Under a union-shop or maintenance-of-membership provision, an employee's vested interest in these rights would be lost if he were separated from his union.

In its evolution, union security may take on new forms in the future. A long, bitter strike of CIO United Automobile Workers in the Windsor (Canada) plant of the Ford Motor Company was settled by arbitration in February 1946. The award, handed down by Mr. Justice I. C. Rand of the Supreme Court of Canada, ruling against the demand for the closed shop, provided for a checkoff compulsory on all employees within the bargaining unit, but did not insist that all employees be members of the union.

The union greeted this part of the decision with strong approval, on the ground that few workers in the plant would be willing to pay dues without

availing themselves of the opportunity to participate in union activity.

Justice Rand proceeded from the premise that declarations of policy by Dominion and provincial legislatures maintained the social desirability of the organization of workers and of collective bargaining.

The corollary . . . is that labor unions should become strong in order to carry on functions for which they are intended.

. . . the employees as a whole become the beneficiaries of union action and I doubt if any circumstance provokes more resentment in a plant than this sharing of the fruits of unionist work and courage by the non-member.

. . . I consider it entirely equitable then that all employees should be required to shoulder their portion of the burden of expense for administering the law of their employment, the union contract; that they must take the burden along with the benefit.

While the union regarded the check-off section of the award as a progressive step, it was extremely skeptical of the section devoted to penalties imposed for unauthorized strikes.

RISE TREND OF UNION SECURITY

Obviously, employers would prefer maintenance of dues rather than of membership; but in many cases where they cannot avoid the latter, they prefer to link it with the checkoff. The reason is plain. If a man falls behind in his dues and is no longer in good standing in the union, he must be discharged under the usual union security provision.

It is significant that the National Industrial Conference Board, analyzing union security clauses in 212 contracts, finds that the checkoff of dues is becoming more prevalent. The checkoff was found in 90 contracts, membership maintenance in 91, the union shop in 47, the closed shop in 6, and preferential

hiring in 13. These figures throw some light on the rising trend of some form of security clause in collective bargaining contracts.²

On May 19, 1946 the Bureau of Labor Statistics reported that "maintenance-of-membership clauses continue to figure conspicuously in collective bargaining agreements." It was stated:

Of 224 agreements effective since January 1, 1946 covering approximately 655,000 workers, 40 now have maintenance clauses. Thirty-two of these were retained from previous agreements. The other eight had formerly provided merely that the union had sole bargaining rights for the employees, while the new contract provides for membership maintenance as well. . . . Ten additional agreements which continued maintenance-of-membership provisions last year do not have such clauses in their present contracts. Of these five have been strengthened from the point of view of the union to provide for a union shop, four provide for an irrevocable checkoff of the dues of union members in lieu of maintenance of membership, and one grants sole bargaining rights.

UNION MONOPOLY

In view of the current trends and tendencies toward some form of union security, it becomes pertinent to inquire into the possible future relationship of union security and the interest of (1) employer, (2) union membership, and (3) the public.

Unions ask for the union shop or some form of security (so they argue) because they can thus assure employers greater responsibility for discipline and production. The usual friction between union and nonunion members is avoided in shops where a form of security prevents employer discrimination, and the union, because it does not have to worry about retention of its membership, is in

² National Industrial Conference Board, *Trends in Collective Bargaining and Union Contracts*, Studies in Personnel Policy No. 71.

a position to offer constructive co-operation for production.

But while union security makes for a strong, disciplined union, it also makes for monopoly, and that carries with it dangers to production. A coal or steel workers union with a monopoly of employees may be the inevitable trend of the times. Assuming that this trend will continue in most basic and mass production industries, the time may come when instead of an aggregate membership of 14,000,000, we may see 25,000,000 or 35,000,000 employees enrolled in monolithic unions, each one capable of crippling the Nation or an important segment of it in the event of a strike.

The coal and steel strikes in the last three years are illustrations of the effects of modern monopolistic tendencies in unions. These tendencies sometimes go hand in hand with political decisions—leadership decisions. The top leaders may contribute toward a party campaign fund out of a union treasury, but the union members who are of a different political persuasion can do nothing about it. If the answer is, “the majority rules,” it is fairly obvious that no member of an economic-purpose union entered upon a political compact when he joined the organization. On economic matters, the will of the majority carries. But how is the minority to be protected when political matters are brought into the union?

With some exceptions, employers are reluctant to grant any form of the closed shop. However, once it is won, they look to the union to enforce responsibility, to avoid slowdowns and unauthorized stoppages, and to discipline those who deviate from contract provisions. In many cases they prefer to deal with a labor organization led by a “strong” man rather than one where “rank-and-file” democracy prevails. This choice tends to place a

great deal of power in the hands of a single individual. Used capriciously or arbitrarily, this power may turn on the employer, forcing concessions felt to be uneconomic, or on the union member, resulting in expulsion and deprivation of a job or livelihood.

As to the first danger, that is no less likely under a closed shop with a “strong” leader than under any other form of arrangement, such as exclusive bargaining, where more democratic rank-and-file union control may normally be more prevalent. As to the second possibility, it is undeniable that abuse of authority may mean dictatorship by a single union officer or clique. Since the Government, as a result of the Wagner Act, has made possible the grant of this authority, it would seem to be no more than fair that some safeguards should be thrown around the enhanced power of the union officialdom. How that can be done without undue government interference in the internal affairs of unions is a difficult question to answer.

SAFEGUARDS AGAINST UNION POWER

A union member who feels that he has been unjustly expelled may, after exhausting his remedies inside the union, appeal to the courts. This is often quite impossible, for the individual does not have the time and the resources to fight such a long-drawn-out battle.

A voluntary approach to this problem is found in the proposal that an outside impartial agency be set up to pass upon alleged union abuses involving discrimination in membership and discriminatory expulsion. A contract between District 50, United Mine Workers of America and the Boston Consolidated Gas Company provides an arbitration board of three to review employees' appeals against suspension, expulsion, or exclusion; one arbiter is chosen by the

union, one by the aggrieved member, and the third is selected jointly.

Unless unions themselves set up some form of impartial machinery to pass on these matters, the Government will do so. This may or may not be unwise, but it is probably inevitable unless labor acts on its own initiative.

Since the Government compels employers to bargain with anyone chosen by a majority in an appropriate unit, what protection will the employee (union or nonunion) have from arbitrary action of a dictator, especially if a closed-shop or security provision is set forth in the contract? One authority would grant power to the National Labor Relations Board to review inequitable restrictions on membership and disciplinary procedure in certain cases involving the closed shop. A verdict for the disciplined member would carry with it assessment of loss of wages, similar to the present practice when an employer is found to have discriminatorily discharged an employee for union activity.³

PUBLIC ASPECTS OF UNION SECURITY

The internal actions of unions which have closed shops have important public aspects. Musical education, for example, is affected by the rules of the American Federation of Musicians; and the power of the federation, under its constitution, is vested in its president, James C. Petrillo, who, it so happens, can change the constitution at will. The International Typographical Union adopts "rules" from time to time and insists that these unilateral policies must be subscribed to by publishers without any bargaining. Building-trade unions have rules which limit production. The closed shop or union shop

inevitably brings with it questions of public policy involving membership requirements such as discrimination due to sex or color. The interests of all parties require that the union shop shall not be synonymous with the closed union. All those eligible should be allowed to join, and the requirements should be as broad as possible. A closed shop and a closed union tend to monopoly.

It is sometimes asked why the closed shop is necessary in view of employee protection against discrimination guaranteed by the Wagner Act. The union answer is that despite the enormous growth of the labor movement, some employers are still unreconciled to unions and would, if they could, hamstring them.

The question of "Why the union shop?" becomes almost superfluous in light of the divided labor movement. The hard fact is that unions today are more anxious to win the closed or union shop or some form of union security than ever before, because they fear that if they do not do so, their rivals will encroach on what each union considers its preserves, or that raids by rival unions will whittle away their membership.

It is this fear that has involved the National Labor Relations Board so often in disputes among unions over rival jurisdictions and what is called "dual" unionism. The Wagner Act does not deal with problems of jurisdiction or dual unionism. It provides for elections where questions of representation exist. The act does not "hand over" employees to unions. It permits employees to choose their own representatives. Therefore, when unions seek to "turn over" members to other unions through "deals," recourse may be had by employees to the NLRB for domestic elections.

The closed shop in foremen's unions,

³ Joel Seidman, *Union Rights and Union Duties* (New York: Harcourt, Brace and Co., 1943), p. 208.

particularly those allied with production workers, is just another manifestation of the present-day tendency toward the bottlenecking of our entire industrial life. A strike of a small group of key workers may just as effectively cripple the Nation as a strike of a much bigger one.

Thus the closed shop, whether involving a small key union or a major industry, gives rise to questions that cannot be ignored. These questions must be discussed frankly by unions, employers, and government.

GOVERNMENT ENCOURAGEMENT

The Government encourages the spread of unionism but will not give its sanction to the closed shop, since it will

not compel employees to join a union. Yet government encouragement leads directly to the spread of the closed shop and other union security provisions—a grant of vast power to union leaders.

What, then, is the answer to government encouragement of a kingdom within a kingdom?

Unless thoroughly democratic practices respecting membership and self-government are fostered within unions, the spread of the union shop will evoke demands for government regulation of one form or another. It will be difficult to draw up proposals for government control that do not interfere in some way with free collective bargaining. That may be a heavy price to pay for the union shop.

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Union Participation in High Productivity

By WILLIAM GOMBERG

THE public's interest in the administration of a labor contract may be found in the answers to the following two questions: (1) Does the contract provide adequate methods to secure labor peace during the life of the contract, thus assuring continuous production and a free flow of services and commodities? (2) Under what circumstances is it possible to make the union an active participant in high productivity techniques?

An investigation of the answer to question number one leads to an examination of the nature of industrial grievances and the interpretation placed by both labor and management on the subject matter at issue.

An understanding of work stoppages where a collective agreement exists calls for an investigation of the nature of grievances that arise under such contracts. In an attempt to standardize the approach to a resolution of these grievances, many manuals of grievance procedures have been developed.

THE LEGALISTIC APPROACH

Most of such manuals have laid emphasis in two areas: (1) the formal methods of recording and taking up grievances; that is, the formulation of methods of presentation and appeal in accordance with the hierarchy of authority; and (2) the separation of "fancied" grievances from "real" grievances; that is, the necessity for resolving disputes in accordance with the facts that are available.¹

¹ See U. S. Department of Labor, Division of Labor Standards, *Settling Plant Grievances*, Bull. 60, 1943, and *The Foreman's Guide to Labor Relations*, Bull. 66, 1944, Washington: Government Printing Office.

Although there has been an occasional reference to the necessity for what is called a human approach to the problem, the whole emphasis has been placed upon what Professor Selekman has called the legalistic approach to handling grievances.² Running like a red thread through all the recommendations is an emphasis on "securing the facts." This gives a pseudo-hard-boiled objective appearance to the solution of most of these problems which unfortunately seldom matches reality.

A FAIR WORK LOAD

Among the workers' grievances, it would seem that arguments over a fair work load should lend themselves to a more objective treatment based on facts than perhaps the more emotional subjects like discharges due to infractions of discipline. To what extent do grievances over a fair work load lend themselves to an objective determination based on facts?

The question of what constitutes a fair day's work is one of the most potent sources of industrial disputes. Edwin A. Lahey, writing in the *Pittsburgh Press* about the acute Detroit labor situation immediately before its explosion into the General Motors strike of 1945-46, expressed the belief that behind most of the unrest on the local level (i.e., shop grievance level) were disputes over the measurement of a fair day's work.³ An examination of the files of the National War Labor Board of World War II discloses case after

² Benjamin M. Selekman, "Handling Shop Grievances," *Harvard Business Review*, Summer, 1945.

³ Edwin A. Lahey, *Pittsburgh Press*, Sept. 25, 1945.

case in which disputes over work loads had resulted in work stoppages.⁴

Much of the trouble revolving around the setting of production standards stems from management's misinterpretation of some of the techniques of industrial engineering which are used to set production standards. A good example of this sort of misinterpretation may be found in the writing of Leland Hill and Charles R. Hook. In discussing the fixing of a wage incentive payment plan, they recommend the writing of the following clause:

When a bona fide new job is created, or when changes are made in equipment or method of processing which will result in a substantial change in job duties for those employees covered by this agreement, management may develop an appropriate rate by the regular procedure in effect in the company for its industrial engineering and industrial relations activities. The rate thus developed shall be the rate for the job, subject to the following provisions:

The union delegate representing the employee or employee to be affected shall be informed by the management concerning such rates. Should the union delegate allege that the rate as determined by the management is improper, the union may regard the matter as a problem, and may present the problem to management as provided in section nine of this agreement provided, however, that problems arising under this paragraph *may not* be carried beyond step three of section nine hereof (nonarbitration).⁵

⁴ E.g., Case No. 111-16460-D, Lockheed Corp. v. International Association of Machinists; Case No. 111-3692-G, G. F. Richter Mfg. Co. v. United Electrical, Radio and Machine Workers Union; Case No. 111-8458-D, Allis-Chalmers Mfg. Co. v. United Automobile Workers Union; Case No. 83068-D, Curtiss-Wright Corp. v. United Automobile Workers Union; and Case No. 111-1073-D, Timken-Detroit Axle Co. v. United Automobile Workers Union; *War Labor Reports*, Washington: Bureau of National Affairs.

⁵ Leland H. Hill and Charles R. Hook, Jr., *Management at the Bargaining Table* (New York: McGraw-Hill Book Co., 1945), p. 225.

The assumptions behind this denial of the resolution of a grievance around the production standard by resort to arbitration are, first, that the setting of rates is a management prerogative; and second, that the setting of a production standard is something that is based on facts and only facts.⁶ It therefore follows, of course, that production standards based on such austere facts cannot be changed by negotiation.

The position taken by the management generally is that it will negotiate base rates with the union. If the system of wage payment is measured day work, management reserves the right to fix the work load expected. If the system of wage payment is some incentive payment plan, management reserves to itself the right to fix the production standard underlying the incentive earning opportunity.

The trade union, in turn, takes the position that it is concerned with the amount of work expected from its membership under measured day work and with the earning opportunities afforded its membership under a wage incentive plan.

Management attempts to justify its position by maintaining that the facts disclosed by the time study provide the sole basis for fixing the production standard.

THE TIME STUDY

The usefulness of the time study in settling a grievance depends primarily on what the margin of error of the time-study technique is. If the margin of error of this technique exceeds substantially the usual increment or decrement to or from a pay roll that results from collective bargaining negotiations, it follows at once that the technique is exceedingly limited in its usefulness as a means of resolving work load disputes.

⁶ See J. Keith Loudon, *Wage Incentives* (New York: J. Wiley and Sons, 1944), pp. 161-62.

An exhaustive study by Leng⁷ of the accuracy of the decimal minute stop watch, the instrument used in time study, indicates some amazing results. The data used here are from Leng, but the writer should be held responsible for any of the conclusions drawn.

The pertinent parts of Mr. Leng's experiment follow: A calibrated synchronous motor was set up to drive an endless loop of film. At fixed intervals a sticker was pasted over the frame of the film. Readings were taken on the stop watch as the pasted frames bypassed a fixed pointer. In this manner a calibrated time interval with definitely fixed end points was being measured by a number of observers. These end points were much more definite and exact than those which the average time-study practitioner is compelled to choose in actual industrial operations.

The observers were made up of nine men whose time-study experience varied from six months to ten years. Their competence was vouched for by Professor Robert K. Morrow of the New York University School of Engineering. Twenty readings were recorded for each observer, making a total of 180 readings on the stop watch.

Yet the deviation of the observed arithmetic mean from the true reading varied from a low of 3.30 per cent for readings of 0.10 minute to a high of 12.6 per cent for a reading of 0.025 minute. When we realize that the permissible percentage error for the entire time study is restricted to plus or minus 5 per cent, the size of the collective bargaining increment or decrement, it seems that this is indeed a large percentage to use up on the most objective part of time study, the actual measurement of the time elapsed.

⁷ Richard B. Leng, "Observational Error and Economy in Time Study," unpublished M.A. thesis, Department of Administrative Engineering, New York University, 1941.

What is even more interesting than the percentage deviation from the true readings is the coefficient of variation for each of these samples. If we assume that the stop-watch readings are distributed normally—indeed an optimistic assumption for stop-watch readings—then plus or minus three times the coefficient of variation will indicate the possible deviation of any individual reading from the true value in terms of the percentage of the arithmetic mean in 997 cases out of 1,000. Thus the stop-watch readings indicated a tripled coefficient of variation, varying from a high of 89.1 per cent for a true mean of .025 minute to a low of 33.4 per cent for .10 minute.

With such large sources of error in the readings themselves, we need but add the residual errors of the less objective parts of time study, such as the allowances for personal fatigue and the application of the rating or leveling factor, to conclude that the facts in the situation, that is the time-study facts, are completely inconclusive in an effort to settle a grievance as objective as one over the work load.

EMOTIONAL GRIEVANCES AND THE CLINICAL APPROACH

A survey of other typical grievances that are likely to arise under the collective agreement includes complaints against discipline, objections to a particular supervisor, and disciplinary layoffs.⁸ All the complaints that arise under these headings are fraught with symptoms of emotional maladjustment on either side. Having already seen how difficult it is to gather facts under the most objective circumstances, is it reasonable for us to suppose that the very legal establishment of the exact facts according to the rules of evidence will actually establish industrial peace?

⁸ U. S. Department of Labor, *Settling Plant Grievances*, *op. cit.*, pp. 2-4.

It is for these reasons that the students of industrial relations, such as Selekman of Harvard, after re-examining the legalistic approach to the handling of shop grievances, recommend the substitution of the clinical approach.⁹

The clinical approach frankly recognizes the emotional content of grievances and accepts these emotions as facts that are every bit as important as the legalistic facts involved. That is perhaps why, despite all strictures against logrolling in the official manuals describing how to handle grievances, practical business agents and workers' representatives have sensed that if you want to live with a person, it is necessary to permit him to "save face" on occasion. Thus, of a number of grievances that require settlement, the practical business agent concentrates on the most important ones and may sacrifice some of the lesser complaints even where they are justified. It is part of his discovery of an empirical means of living with management. I do not doubt that the same is true on the other side. Under such circumstances it can be readily seen why it is so difficult to lay down general rules or principles for the settlement of grievances: so much depends upon the temperament and emotional make-up of the people who are doing the negotiating.

It is too early yet to draw any general conclusions about how to handle grievances, and until more information is available it may be well to remember simply that pseudo facts may occasionally be as misleading as outright falsehoods.

WORKERS' OPPOSITION TO TECHNOLOGICAL ADVANCE

A clear understanding of what is involved in the emotional content of workers' gripes in the factory assists in determining under what circumstances

unions can become active participants in high productivity techniques, or at least the circumstances under which unions will interpose no obstacles to the introduction of improved technological procedures.

Management thinking in the Hill-Hook tradition denies the working force any voice in the introduction of new techniques into the manufacturing process of the industry. This, it maintains, is purely a management function and responsibility.

On the other hand, the union whose membership sees its skills made obsolete over night and its entire apprenticeship investment dissipated at once is not likely to be guided completely by the rules of clear, detached logic. It is much more likely to be tempted to emulate those members of management who likewise seek to protect an obsolete investment, even if it requires antisocial activity.

The usual pleas of academicians about the long-run benefits of technological progress to public, labor, and management will fall on deaf ears for two reasons: (1) It is by no means certain that the immediate working group will participate in these benefits, even in the long run; and (2) practically all workers live in the short run, they marry in the short run, they bring up their children in the short run, and they either starve or prosper in the short run between birth and the grave. Democratically conducted unions are the organs of expression of these short-run human beings.

WORKERS' ACCEPTANCE OF TECHNOLOGICAL ADVANCE

Yet it has been possible to secure the active co-operation of the trade union in the application of high productivity techniques to certain industries.

Industries like the garment trades, where the classic pattern of the atom-

⁹ Selekman, *op. cit.*, p. 471.

istic market is most closely approximated, are in a constant state of shift and flux. The industry is highly portable, requires little fixed capital, and approximates most closely the ideal competitive condition of free entry of new entrepreneurs. Because of this constant state of flux that results in the constant opening of new factories, requiring union organization, it is possible to persuade the garment workers that it is to their interest to keep union factories in a good competitive position. Under the circumstances, less worker resistance to technical labor-saving innovations is encountered in the garment industry than in more stable or less fluid industries.

Thus the acceptance of advanced manufacturing techniques does not flow from any exaggerated sense of making a social contribution, but from the very fundamental consideration of competitive survival.

On the other hand, workers' organizations in the more stable industries, like the railroads, merely reflect in their so-called "make-work" policies the policies of the carriers themselves when they band together to protect their old investment by agreeing to restrict the introduction of more modern equipment.

SOLUTION OUTSIDE OF INDUSTRIAL RELATIONS

Problems such as these can no more be solved by the grievance machinery of industrial relations than can the monopoly problem be solved by antitrust legislation. The remedies for technological obstructions such as those described lie outside the field of industrial relations. Occasionally, public-spirited humanitarians recommend that individual firms key their technological displacements to the normal labor turnover. This presupposes a control over competitive costs which few firms have. Under the circumstances, the problem

offered by these displacements calls for political remedies as distasteful as the word "political" has become to most people. These political measures, related to unemployment insurance and restraining program, plus the assurance of a perpetually expanding economy, contain the answer to these problems, rather than the field of industrial relations per se.

The grievance that arises in connection with technological problems is merely a symptom of a weakness much more deep-seated than an industrial relations failure. Once the fundamental problem of worker security against unemployment has been solved, and increases in man-hour productivity mean something more than merely a shorter work season, it will become possible to use the clinical approach in industrial relations to gain unrestricted acceptance of technological improvements. This approach can be used to overcome the emotional disturbances that arise from upsetting the stability of the worker's customary working habits, provided he is assured that his fundamental security is not threatened.

PUBLIC RESPONSIBILITY

Thus, many of these stoppages that interfere with the public interest may be traced directly back to the public failure to assume some of its social obligations.

It may be emphasized that the public itself is made up of agricultural workers, industrial workers, and managerial members, among other groups. This can bear repeating because many newspaper editors, in their zeal to become the public spokesmen in assailing industrial disturbances, resort to the "plague on both your houses" technique, completely overlooking, first, the fact that the public is made up of diverse members of the same social classes involved in the conflict, with all the sympathies

and group loyalties that such a classification implies; and second, the fact that the public itself has obligations as well as rights.

For example, the miners' contempt for the public interest merely reflects the public callousness and indifference to the problems of the miners. Though they are employed in one of America's most hazardous industries, very few provisions have been made for the care of those injured in the course of work. Families deprived of their breadwinners

as the result of mine accidents become public charges and the objects of charity. Public reaction has confined itself to public investigation. Miner reaction to the public hardship under the circumstances is, "So what?"

A public interest in and contribution to the solution of some very fundamental economic problems, accompanied by a sound clinical study of industrial relations by specialists, would enable the real administration of the labor contract on behalf of the general public.

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Better Management and Better Union Leadership

By C. F. MUGRIDGE

UP TO 1935, our country had been giving almost no support to collective action by workers. The Wagner Act—often cited as labor's Magna Charta—signed on July 5, 1935, made it illegal for employers to interfere with union organization of workers. Now for the first time workers no longer had to fear loss of jobs or permanent ostracism because of flirtation with unionization. The public had at last followed other democratic nations in encouraging collective bargaining and signed agreements between unions and employers. And by this action unions were destined to become important and controversial factors in our economic, political, and industrial life.

The law was heralded by its advocates as the foundation of everlasting industrial harmony. It was—so they proclaimed—a long-needed democratic implement enabling workers to cope with the power of employers. It would mark the beginning of unparalleled industrial progress. The autocratic and unilateral system, traditional in industry, would give way to democratic processes and industrial jurisprudence. Workers, through their representatives, would negotiate contracts ensuring a higher standard of living and improved working conditions. These contracts, clearly defining the rights and obligations of labor and management, would dispel suspicion and misunderstanding. All of this would assure the public of prodigious benefits.

But the advocates of the law failed to recognize that the field of labor relations is primarily one of human relations fraught with human frailties and emotions difficult to control by a code of behavior spelled out in a dull labor contract. The sponsors of the act had

given little or no heed to the paucity of union and industrial leadership prepared to solve unforeseen obstacles. They had discounted, apparently, the stupendous task of creating trade-union consciousness and responsibility among the millions of union recruits. They had missed sight of a split in the labor movement and its devastating results. They had overestimated industry's capacity to adapt itself to a new type of employer-employee relationship. They had discounted the opportunities for abuse by power-drunk union leaders.

Perhaps the sponsors of the act did foresee these perplexing aspects; and perhaps they were content to rely on public pressure for arresting any social evils arising from collective bargaining.

THE PLEDGE TO PUBLIC WELFARE

That the act has served its main purpose in expanding unionization and contractual relationships is now a matter of record; for at the end of 1942, according to the Bureau of Labor Statistics, over fifty thousand labor contracts were in operation. Although only in rare instances does a labor contract directly refer to public interest, almost all labor agreements are prefaced by the following type of clause:

The Employer and the Union each represents that the purpose and the intent of this agreement is to promote co-operation and harmony, to recognize mutual interests, to provide a channel through which information and problems may be transmitted from one to the other, to formulate rules to govern the relationship between the Union and the Employer, to promote efficiency and service, and to set forth the basic agreements covering rates of pay, hours of work, and conditions of employment.

By this significant statement, unions and companies have indirectly pledged themselves to protect public welfare; for if both parties were to carry out this intent and purpose, untold accomplishment would be inevitable. Understanding and mutual respect, prevailing throughout the contractual period, would carry over to the bargaining table; and these two qualities always effectuate healthy, harmonious, and constructive negotiations. Why do management and labor so often fail? What causes constant friction in many relationships? How can distrust, misunderstandings, and constant bickering be dispelled? What practices and techniques have proved helpful in establishing sound relationships?

MEANS TO UNION ENROLLMENT

Unions have been primarily engaged in enrolling members. In their zeal for national coverage and protection against piracy, unions have not been able to service each local as they ordinarily would strive to do. The fact that an employee joins a union does not mean that he understands the aims of unions or appreciates their long-pull advantages. Frequently organized by promises with remote or no possibility of fulfillment, it is not surprising that members have ignored the guidance of their leaders. Union discipline is utterly essential for peaceful labor relations; but its appeasement and relaxation have been pretty much the standard substitutes for constructive educational programs.

Even the ablest unions have been guilty of utilizing insidious propaganda, depicting industry and capital as selfish and predatory vultures. Libelous slander and venomous indictments of industrialists have served to convince recalcitrant or dubious members that unions are their only salvation. Labor leaders have been callous in admitting that most of this proselytism has been

wanton exaggeration. "What harm," they say, "can come from the falsification of facts if such action entrenches trade unionism?" But this negative conditioning has distorted the minds of many employees. Constantly in a state of agitation, they have breached contracts as a natural outlet for pent-up emotions.

Since union enrollment is still the main objective of most union leaders, the process of education has lagged. Arduous and long educational policies will be necessary to bring about a conversion on both the intellectual and emotional levels in favor of collective bargaining and its responsibilities. Unions have taken long chances in destroying the very thing affording them virility and effectiveness. There is no doubt that workers need their own leaders to teach them the true function of unions in our economy, but to poison the minds of workers against their employers and business is an infamy of which too many union leaders have been guilty. There are outstanding examples of constructive programs for enhancing the education of union members in the concepts of trade unionism, but they are too few in number. Until more unions are forced by public pressure to adopt informative systems, there can be little hope that labor contracts will work for the benefit of the country as a whole.

FAILURE TO ACCEPT UNIONISM

Industry has been appallingly weak in acclimating itself to the type of industrial life introduced by unionism. Management's approach to collective bargaining has been frequently idealistic, being shaped largely by views on industrial rights, free speech, and other constitutional privileges. All of this is appropriate in a limited sense only. Collective bargaining is an art in a business sense. It involves shrewdness, persuasiveness, ethical coercion, self-confi-

dence, compromise, integration, decency, honesty, and inexorable patience. These are common business qualities too often lacking in dealing with organized labor; but they have not been overlooked by keen union officials who have been using them to advantage with managements still viewing employee relations with paternalistic and sentimental magnifiers. Many employers continue to fret and smart because their employees have shifted their loyalty to a union; still attempt to recapture this loyalty by voluntary concessions for which the incumbent union can gain no credit; even yet adamantly refuse to accept the union as an integral part of employee relations.

Under such circumstances unions are never able to enjoy a sense of security. Union stability is present only when there is a real and overt acceptance of the union by the employer, and when circumvention has been replaced by businesslike co-operation. Insecurity breeds agitation and militancy; it creates dissension and bitterness; it discourages the rise of strong but sound union leadership—the kind desiring to promote contract sanctity and peaceful negotiations. Union leaders are most often conditioned by the atmosphere in which they work. The old adage that management obtains the type of union leadership it patterns is indeed a truism.

UNION STEWARDS

Shop stewards are the most influential people in a union. They are on the firing line; they know the true pulse of the members; they are in the best position to acquire facts; they participate in the first step of most grievance procedures. They should be well informed; but unfortunately the opposite is usually true. Except in rare instances, unions are not in a position to pass along pertinent information about the intricacies of a business. This has

to be done by management. How can stewards properly and justly represent their constituents or resolve grievances factually if they are ignorant of time-study techniques, job-evaluation systems, bonus plans, reasons for technological changes, safety rules, disciplinary rules, and countless other things affecting labor relations?

The job of a union steward is a thankless one, requiring patience and sacrifice and causing worry and frustration. A good steward must spend much of his time convincing those who have elected him that their grievances are not valid. He must deal firmly with agitators eager to exercise their sadistic propensities. Union stewards, ignorant of business facts and treated by management as unnecessary meddlers, are at the mercy of the radical group present in every plant. Where companies have taken the lead in teaching and informing these union officials, sound and constructive leaders aspire to be elected. It is no paradox that members want their steward to work in harmony with the employer, for they are cognizant that a co-operative relationship with the company ensures the best job.

FOREMEN

In management, the foreman is the most important individual to influence the kind of relationship conducive to public well-being, for the attitude of any company is reflected to the workers by the attitudes and actions of its foremen. Industry must accelerate programs for developing a thinking, informed, educated, hard-hitting, and socially skilled group to manage and direct people successfully.

Industry has lagged woefully in this task. It has not yet realized that enhancement of education prompts vigorous demands for better leadership in all walks of life. Workers no longer find it possible to be satisfied with weak and

impotent managerial directors. Foremen unskilled in the art of handling people and unable to cope with perplexing labor relations have been responsible for much bickering and industrial chaos. Under such circumstances it is only natural for unions to become militant, vindictive, and disrespectful to companies. To the ordinary worker it is inconceivable that a company truly desiring harmonious relations would tolerate the stupidity often practiced by its representatives.

The type of leadership displayed by foremen is emulated by union stewards, and foremen emulate their superiors. Good foremen inevitably create good stewards, and likewise poor foremen create poor stewards; for people are conditioned by the atmosphere in which they live. If there is to be an improvement in steward leadership, there must take place an abrupt change in management's concept of the type of leader necessary in the lowest stratum of company organization.

Shunted to a secondary position by staff departments and shorn of responsibilities by higher management, even foremen with latent or potential ability have been unable to offer their contributions to the solution of labor relations. Often dissatisfied with their present status, they too—in many instances—have sought unionization as a means of correction or as an overt protest.

American management has lost the effectiveness of those individuals whose closeness to the workers and to the actual problems of day-by-day labor relations could be invaluable in steering a constructive relationship with a union. But there are rays of hope for rectification of this grave weakness; for some companies, recognizing the need of a virile lower management group, are seriously attacking the problem. There are outstanding examples

of development and continuous educational programs not only for the lower group but for those in every management position. They are setting as their goal the creation of an organization proficient in all managerial aspects. Management has been highly efficient in technical skills, but dangerously weak in the social skills essential for preserving an integrated group of employees when organized. These companies that have taken forward steps note a decided change in union and employee attitudes, along with increased productivity. But this movement must be adopted by other companies without delay. It is the Number One requisite if labor relations are to be improved.

WORDING OF CONTRACTS

Perhaps from tradition or pride of authorship, union and company negotiators persist in composing labor contracts in unappealing and incomprehensible legal terminology. There is no valid reason for language beyond the understanding and appreciation of those who must be guided by the contract. It does not make the contract more binding or foolproof under law of arbitration.

Any labor contract should be an important implement in preserving and enhancing a sound relationship, for it represents the final agreement in which both parties have committed themselves to definite obligations and responsibilities to obtain the mutual objectives explained in its preface. It depicts a code of behavior which if adhered to would unfailingly guarantee the public, management, and workers a period of peaceful relations conducive to progress. In reality, union and management representatives, in signing the document, have bound all workers, supervisors, executives, directors, union officers, and everyone employed by the company of the union. But how can

the ordinary person be expected to respect that which he cannot understand?

It is common for both parties to sign a contract with a sigh of relief, file this contentious document in a fireproof vault, and, after the usual honeymoon period, renew haggling and confusion. Union leaders privately admit that only major clauses, pertaining to important benefits, are ever intelligently explained to a membership meeting; and it is not uncommon to find management people responsible for administering contracts with only a casual idea of the contents.

Let us examine a typical clause contained in one form or other in many labor agreements.

NO STRIKES—NO LOCKOUTS

The Union agrees that by reason of the establishment of machinery for the appointment of an impartial arbitrator to act as the agreed agent for both parties in the final settlement of grievances not otherwise adjusted in the interpretation and application of this agreement, no strike can occur during the term of this agreement. In conformity with the reasons stated in the foregoing, the Company agrees that there will be no lockout of any employee of any department during the period of this agreement; and the Union agrees not to cause or permit any of its members to take part in any strike, sitdown, slowdown, stoppage of work, or other act interfering with production, or permit its members to participate in any picketing, demonstrations, or displays pertaining to the above-named interference with production. Violation of this provision by the National Union or Local Union will result in automatic termination of this agreement.

It is agreed that no employee shall engage in any strike, sitdown, slowdown, stoppage of work or other acts interfering with production or shipments from the plants of products produced, or engage in any picketing, demonstrations or displays pertaining to the above-named interferences.

The Company may discharge, or the Company and/or the Union will otherwise

discipline an employee who foment, aids, abets, incites, or participates in any of the above.

The question of whether a discharged or disciplined employee did aid, abet, incite or participate in any of the above-mentioned items shall be proper subject for determination at a hearing on the discharge or discipline in accordance with the Company's practice pertaining to hearings and in the several steps of the grievance procedure except Step I. Upon agreement or a final determination that the employee did so conduct himself, the discharge shall stand and the discipline shall not be contested by either party.

Here is a clause of vital importance—particularly to the public. It is a pledge of uninterrupted production during the contractual period. Yet it is couched in terms which may be incomprehensible to those solemnly bound by it. Little wonder that wildcat strikes, stoppages, and other production restrictions are present when experts in their semantic zeal persist in thus overloading the clause outlining a grave obligation.

A few companies and unions, recognizing the pitfalls of legal terminology, have experimented with techniques for getting across the contract to all people charged with its administration. At the conclusion of formal negotiations they have transcribed the contract into a document of down-to-earth and straightforward language. And then, under the direction of trained union and company leaders, joint conferences of union and company officials, engineers, superintendents, stewards, local union officers, and foremen have been held to discuss frankly and honestly the supplementary agreement composed in shop talk.

For example, the obscure clause just related might read as follows:

NO STRIKES—NO LOCKOUTS

EVERYBODY HAS TO KNOW THIS CLAUSE
—AND KNOW IT COLD.

WHAT HAVE WE REALLY SAID?

1. Every employee has said to the company, "I will never strike, slow down, or do anything to cut down production."

2. The company has said, "We won't get sore and tell all of you to go home until you play the way we want you to."

3. If any employee pulls a strike or a slowdown, he will be fired or punished by the company and will be put in the doghouse by the union.

4. The company and the union will not stand for people who try to pull such tricks or go back on their word.

5. Don't forget this—we have agreed to play ball with each other.

6. We are going to have some grievances. But that is why we have the grievance procedure. Let's settle them like decent people.

7. As leaders, let's be on our toes and keep everybody's feet on the ground.

8. None of us can get away with an alibi if we go back on this promise.

Although this technique violates the rules of proper grammar and transgresses legal traditions, it is highly effective. Accomplishment of progressive

relationships should be a goal of every union and company. As public servants, they have the duty of exploring any means to reach this objective.

PRESSURE OF PUBLIC OPINION

Unions and companies are today keenly aware of public attitude and sentiment; but relief from devastating strikes has been sought through politicians. Far removed from the scene of action, they are not in a position to diagnose the true reasons for failure of labor contracts to work in behalf of the public. Despite the integrity and the ability of Congress, it is doubtful if it will ever be able to legislate sound labor relations. But unions and companies have the answer. The public should not hesitate to demand from both the adoption of practices ensuring protection to our economy and guaranteeing the maintenance of our industrial goals. If a few union tycoons of today were to hear the voice of the people, they would rapidly change their tune.

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The National Labor Relations Act

By ELINORE M. HERRICK

WHEN the Wagner Act became law on July 5, 1935 a new concept of industrial relations was charted for exploration and development. Labor's right to organize had long been shrouded in legal uncertainties. The vast majority of employers not only refused to recognize any such right, but fought unions lustily. Congress believed that by protecting the right to organize and by requiring employers to bargain collectively, industrial peace would be achieved. The lawmakers believed also that with freedom to organize, the resultant greater equality of bargaining power between labor and industry would enable labor to raise its wages, increase purchasing power, generally improve working conditions, and thus bring about a more healthy economic situation for the country.

The new law not only affirmed the right of workers to join unions of their own choosing, but offered them protection from interference in their organizing activities and from discharge or other forms of reprisal taken against them in the exercise of this basic right. Specific practices of employers which Congress found interfered with organization of labor and with collective bargaining were banned as "unfair" labor practices. A National Labor Relations Board was established to administer the act. Among its duties was that of ascertaining the choice of bargaining agent desired by a majority of the workers in any unit found appropriate by the Board.

IMMEDIATE EFFECTS OF THE LAW

Instead of setting the scene for an era of industrial peace, the passage of the law opened the floodgates to a torrent of objection by employers. Strikes

increased because of employer resistance to the law. The prospect of industrial peace seemed to grow ever more remote.

Employers overlooked no possible angle of attack upon the act or its administrators. The constitutional right of the Federal Government to regulate or "interfere" in the relations between an employer and his employees was challenged at every turn. Employers who had long exercised a life-and-death economic power over their workers would brook no curtailment of their autocratic right to hire and fire at will—for whim or prejudice. Many felt sincerely that their government had betrayed them, given them over into the hands of an enemy. There is no need at this time to repeat all their anguished protests.

Organized labor hailed the National Labor Relations Act as its "Magna Charta," but not for long. Only two years later the AFL seriously considered asking amendments to establish the sanctity of craft units and accused the Board of bias in favor of the CIO. Soon the CIO attacked the Board with equal vigor for having held a few craft unit elections. Continuing attacks on the administrators and on their interpretations of the law must not be allowed to obscure the fact that labor has a freedom and protection never before enjoyed, which has made possible the rapid growth in size, financial resources, and power of the unions.

BACKGROUND OF THE LAW

To understand the years of tumult that followed enactment of this law, which delayed the development of orderly collective bargaining processes, we must go back at least to the first years of the Roosevelt administration. Four

factors sharply influenced the form of the National Labor Relations Act, its effectiveness, and the character of its administration. These were (1) the brief experience with Section 7(a) of the National Industrial Recovery Act (passed June 1933); (2) the revelations of employer antiunion activities by the La Follette Civil Liberties Committee; (3) the anti-NLRA tactics of the Liberty League; and (4) the bitter rivalry between AFL and CIO groups.

Whether we realized it or not, we were then, and still are, going through a political revolution in which the Government undertook to play a direct role in the rivalries and relationships between different economic groups in our society. This contrasts with the concept of government hitherto followed, that government should lay down only a few rules of the game defining the boundaries of these relationships.

This was a period of upheaval, of terrible business depression, of social crisis—and the workingman had the public's sympathy because he was the "underdog." Section 7(a) of the NIRA recognized the workers' right "to organize and bargain collectively through representatives of their own choosing . . . free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection."

In Section 7(a) workers saw for the first time a promise of active government aid and protection in their efforts to organize to improve their wages and working conditions. Yet it was an everyday occurrence for a group of workers discharged because of their union activity to cry in bewilderment, "But President Roosevelt told us to join a union and that we could not be discharged for doing so." The denoue-

ment intensified their bitterness against employers as a class.

Labor leaders were quick to capitalize on this reaction, and have continued ever since to appeal to "class warfare" as an organizing device.

Adding to the workers' sense of injury was their experience at the hands of antiunion employers, the realization—later confirmed by the La Follette Civil Liberties Committee—that these employers were spending huge sums to defeat the organization of workers, at the same time pleading financial stringency and taking advantage of vast unemployment to force wages to sweatshop levels. Strikes to secure the minimum wage and collective bargaining supposedly guaranteed under the NIRA were frequent.

The vigor with which the Government prosecuted violators of price-fixing provisions of the NIRA was in bitter contrast to the feeble steps taken to enforce the rights of labor.

Senator Wagner, as chairman of the National Labor Board administering Section 7(a), early became aware of its inadequacy, and in February 1935 introduced new legislation which in modified form became the present law. On June 19, 1935, a month after the United States Supreme Court ended the NRA, the present National Labor Relations Act was passed by Congress and sent to the President for his signature.

ONE-SIDEDNESS OF THE NLRA

Against such a background it is not strange that the act was framed deliberately to hit at the unfair labor practices of employers only, or that the possibility of abuses of power by labor was not seriously considered and guarded against in the law. Nor is it to be wondered at that the administrators of the NLRA upon occasion displayed an undesirable crusading zeal—too many employers evoked it. Nor can one ig-

nore the impact of the Liberty League upon the character of the law's administration. The organized defiance of this group of some of the Nation's leading lawyers in proclaiming the law unconstitutional and publicly urging employers to disregard it—without even waiting for the courts to pass upon the question—was not calculated to strengthen respect for the law or cooperation with its administrators.

The effectiveness of the NLRA was unconscionably delayed by a veritable plague of legal contests—the same questions over and over again in one Circuit Court of Appeals after another. Every conceivable obstacle was raised to hamper effective enforcement, with the result that the law was virtually nullified for a full two years and more.

The net effect of this long legal battle was to heighten the sense of fear and insecurity, and to increase bitterness among workers against employers individually and collectively.

Despite the bad reception accorded the new law, certain positive gains can be counted.

EXPANSION OF TRADE UNIONS

Unions have grown enormously in strength. Their dues-paying membership leaped from an estimated 3.5 millions in 1934 to approximately 14 millions in 1944.¹

This growth speaks well for the protection the act has given to union organizing efforts. Undoubtedly, however, membership gains have also been influenced by the acceleration of normal organizing activities springing from the rivalry between AFL and CIO and by the latter's appeal to large groups of workers in mass production industries.

¹ Florence Peterson, *American Labor Unions* (New York: Harper & Bros., 1945), p. 29; S. T. Williamson & Herbert Harris, *Trends in Collective Bargaining* (New York: Twentieth Century Fund, 1945), pp. 18, 21.

Nevertheless, the NLRB can properly claim that its effective work in exposing and correcting unfair labor practices and in relegating to the "dark ages" of pre-NLRA days the kind of abuses brought to light by the La Follette Committee has been of major assistance to the trade-union movement.

The unprecedented economic and political power of organized labor today scarcely needs comment. A union so tightly organized that it can shut down the whole vast steel industry with only a token complement of picketers to patrol at the gates of the sprawling mills has grown to man's estate with all the responsibilities that implies. A union movement which by mere threat of political action can cause a Congressman to decide not to run for re-election must be reckoned with. This new strength and vigor—often undisciplined—has created problems for the NLRB.

GREATER ACCEPTANCE OF THE ACT INDICATED BY STATISTICS

Although the volume of the Board's work has increased with the years because of a larger and more aggressive union movement, the statistical reports of the Board reflect measurable gains. Wider employer acceptance of the principles of the law would seem to be indicated by the fact that unfair labor practice cases constituted only 24.9 per cent of the total cases filed in the fiscal year 1945, in contrast to 81.0 per cent in 1936.² Only one-fifth of these involved refusals to bargain.³

More widespread use of the Board's election machinery as represented by the 7,310 petitions filed in the fiscal year 1945 for peaceful determination of bargaining agencies for 1,438,967 workers⁴—the largest number of cases filed

² Tenth Annual Report of the National Labor Relations Board, Table 1, p. 6.

³ *Ibid.*, Table 3, p. 81.

⁴ *Ibid.*, Table 2, p. 80.

in any year to date under Section 9(c) of the act—is another measurement of increased acceptance of the law. The value of the Board's election machinery is plain. Each balloting or cross-check of cards disposes of a doubt which might well be the barrier to collective bargaining for an employer. The mere holding of an election does not prevent a dispute from breaking out, but it does eliminate one of the frequent reasons for many of the strikes typical of the early days of the act when employers were resisting even elections.

That formal action had to be instituted in only 12.4 per cent of the unfair labor practice cases filed during the same months⁵ is another hopeful sign of development of a better understanding of the value of good labor relations.

Notwithstanding these demonstrable facts as to the increased acceptance of the principle and practice of collective bargaining, there remains among the people who administer the law a feeling that current employer compliance is only an expedient and not evidence of a real, sincere desire to develop constructively a long-term relationship.

CHARACTER OF CASES

Analysis of the collective bargaining questions considered by the Board in recent decisions reveals few cases of the brazen refusal to bargain so typical of the early days. Rather do these cases involve difficult majority and unit questions. There have been a large number of the latter since July 1, 1945. There have been more cases in which it was difficult to determine whether the bargaining itself was in good faith. There are even indications that some union leaders have acquired an erroneous concept of what collective bargain-

ing is. After all, it is supposed to be a two-way street.

For example, in the matter of *Libby, McNeill & Libby*, 65 NLRB 873 the Board had to determine whether the refusal of an employer to eliminate a wage incentive plan which had been in effect for three years without protest from the union, although unilaterally imposed by the employer, was a refusal to bargain in good faith. The Board held:

The attack on the plan comes too late. The union accepted the plan in the first instance and took its benefits for almost three years. It should have voiced its objections when the plan was first introduced. Having accepted it, there was nothing for the Respondent to bargain about until the union brought it up for bargaining. It is found that at no stage has the Respondent refused to meet with the union and bargain on any feature having to do with the plan or any other matter pertaining to proper subjects of collective bargaining . . .

Another illustration of the type of collective bargaining question coming before the Board is to be found in the matter of *Moanalua Dairy, Ltd.*, 65 NLRB 714. The Board reasoned that "because the Respondent consistently took the position that the employees were not covered by the act, the parties never reached the point of clarifying their respective positions with respect to the bargaining unit." It held further that "since the union clearly represented a majority of the employees in the unit, regardless of the inclusion or exclusion of the clerical and supervisory employees, it was not of crucial importance to it whether these employees were included or not." The union having meanwhile indicated to the Board's field agent that it would be willing to make the exclusions requested, and the employer having been advised that they could reach agreement on the unit, the Board also held that refusal to bargain

⁵ Tenth Annual Report of the National Labor Relations Board, Table 7, p. 84.

was not based upon a bona fide doubt as to the appropriate unit.

The prevalence of such cases as the above in the greatly reduced number of alleged violations of Section 8(5) supports a belief that the basic principle of collective bargaining has become a firm part of our national labor relations program, and that the Board's preoccupation today is with refinements of definition and interpretation of collective bargaining in good faith.

STRIKES

The Wagner Act has not stopped strikes—has not ushered in that era of industrial peace its framers claimed would result from stopping unfair labor practices by employers. While the public is prone to gauge the effectiveness of the NLRA by the number of strikes and their severity, this is neither fair nor scientific. Two other factors have to be considered: (1) the number of man-days lost, and (2) the natural increase in strikes from a larger and more aggressive labor movement.

Any attempt to attribute the strike load to the NLRA must fail, because not all strikes are due to unfair labor practices, which are the only kind the act recognizes. This law does not deal with strikes called by unions in violation of their contracts or with strikes over economic issues arising in collective bargaining. In the matter of jurisdictional strikes, the Board has long had the policy of ignoring representation issues involving two unions of the same affiliation.

Labor hurts its own cause in the public regard when it indulges in jurisdictional strikes. They often cause substantial economic or social loss, as in the recent tie-up of desperately needed veteran housing in the New York area. But the jurisdictional strike is not a new problem—it is as old as the AFL, and seemingly one that the union offi-

cials cannot handle. This is an item for the congressional agenda.

CHANGE IN COLLECTIVE BARGAINING FIELD

The NLRB—no less than the public—has been disillusioned by the frequency of strikes called in violation of contracts. Perhaps the administrators have been somewhat naïve. Their first efforts to help the unions get contracts written and signed were such a battle that it probably never occurred to them that a union would ever violate such a contract. In the early days, before the long line of court decisions sustaining the right to a written contract once agreement had been reached, unions seemed almost pathetically grateful even for a memorandum on a company bulletin board recognizing it as sole bargaining agent.

Now, countless written collective bargaining agreements regulate minute details of the employer-employee relationship. New demands giving labor a voice in determination of policy in matters formerly held to be solely the prerogative of management are being pressed with vigor. The whole area of collective bargaining has been enlarged. The growth of union membership and the number of unions, their increased bargaining power, and the great increase in number of agreements reached through collective bargaining—all objectives of Congress in passing the law—cannot be disputed.

The practice of collective bargaining received a setback during the war when government determinations were substituted for it or imposed over matters that ordinarily the disputants would resolve. From its inception, the CIO looked to government for protection, and quite properly received it under that portion of the law which gives to workers the right to bargain collectively "through representatives of their own

choosing.”⁶ The CIO early learned to use the NLRB and the law to its advantage. The AFL did not use the law to the same advantage; it was more aloof—relied more on its own strength. But during the war the AFL too had to look more and more to the Government. This was inevitable under wartime conditions. Equally inevitable has been the weakening of the practice of collective bargaining, for employers also were not loath to seek government rulings when they would be aided thereby. But we had strikes in protest against government rulings, and these too cannot be charged to the NLRA. A Sewell Avery can be handled, but the problem of enforcing government rulings which are unacceptable to labor concerns the Board.

INTERFEDERATION RIVALRY

The rivalry between the AFL and the CIO has impeded the Board and exposed it to many unfair attacks. Charges of partisanship have emanated not only from employers but from labor sources too.

The NLRA was passed before the division within the labor movement had crystallized. The conflict between the two groups showed first in the Board's election procedure. Congress gave the Board complete discretion to determine the appropriate unit for collective bargaining.⁷ Subsequently New York State added to a section similar to that in the Federal statute the following: “. . . however, in any case where the majority of employees of a particular craft shall so decide the Board shall design-

nate such craft as a unit for the purpose of collective bargaining.”⁸ Wisconsin included a similar provision in its law.⁹ No matter how Solomon-like the Board might be—and it did try—it could please neither rival, and was handicapped by a law which gave it no guideposts in disputes over craft versus industrial units. Yet the Board was unwilling to have the law amended, and has resisted every proposed change, fearing that to accept one would invite a host of “undesirable” changes.

Employers are caught in the middle of this union warfare. Plants are kept in turmoil while one or more unions jockey for position. Sometimes unions strike rather than risk an election. Yet it took a long internal battle led by regional directors who were on the firing line to induce the Board to change its rule denying employers recourse to an election. Finally employers confronted with collective bargaining demands from two or more rival unions were allowed to petition; but the problem of the employer threatened by a strike for recognition by a single union remains to be met.

Despite considerable justification in the past for its fear of employer petitions filed prematurely to circumvent organization, the Board has erred in refusing on this and other issues to recognize changed circumstances warranting amendments to its own rules and to the act.

PROBLEM OF ENFORCEMENT

The NLRB is finding its efforts to enforce the law thwarted by certain elements of the very group for whose benefit the law exists. Secondary boycotts are being used to force the Board to action desired by the particular union without regard to the provisions of the

⁸ Sec. 705(a), Art. 20, N. Y. State Labor Law (1944).

⁹ Wisconsin Sec. 111.05(2).

⁶ Sec. 7(a), National Labor Relations Act.

⁷ Sec. 9(b) of the NLRA: “The Board shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act the unit appropriate for collective bargaining shall be the employer unit, craft unit, plant unit or subdivision thereof.”

act which guarantee employees freedom of choice in the selection of a bargaining agent. The minority report of a House Committee states:

Many instances of pernicious use of the secondary boycott were brought out before the committee and many more are available in testimony taken by other Congressional committees and in recent court decisions. An Ohio manufacturer of neon signs, for instance, testified that although he had a contract with a CIO union certified by the National Labor Relations Board in his plant, the AFL construction union had boycotted his products because they did not bear an AFL union label, and that he was unable to sell any of his products.¹⁰

The NLRB has a host of such cases and some five at least have been taken to the courts. Secondary boycotts have been used frequently on the west coast, mainly by the AFL, expressly to defeat the Board's effort to protect the freedom of choice guaranteed to workers. Congress is fully cognizant of the seriousness of this problem and should act upon it in the public interest.

Another device by which employers and unions seek to circumvent the law is what the NLRB and unions call "sweetheart contracts." These are agreements made by an employer with the union he believes he can "live with" most advantageously, in complete disregard of his legal obligation to deal with the union chosen by his employees. The net result can only be to stir rebellion among the workers and to promote unstable relations and often prolonged litigation. It is no credit to the AFL that it has most frequently entered into these agreements.

In an effort to meet this problem the Board has promulgated the rule that "where a petition is filed more than 10 days after the assertion of a bare claim of representation, and no extenuating

circumstances appear, an agreement, otherwise valid, which is executed in the interval should be held to constitute a bar."¹¹ Also, the Board has adopted a rule that a collective bargaining agreement arrived at with a freely chosen agent—i.e., under Section 9(c) of the act—cannot be upset until it has run at least one year.

The Board has dealt courageously with such situations, but Congress in a rider to an appropriations bill—rather than through forthright amendment of the act—has limited the Board's power in such cases by requiring that after a contract has been posted in the plant for a fixed period of time the Board may accept no new petition.

It seems useless to hope for any peace between AFL and CIO, so our basic law should be revised to reflect the existence of rival labor organizations, to ban "sweetheart contracts," and to provide rules for the Board in dealing with problems that arise because of this tragic division.

FREEDOM-OF-SPEECH ISSUES

The Board's attitude toward "freedom of speech" when exercised by employers is still influenced by its early experiences when unions were weak and the Board's own power to protect against improper discharge was not established. Then employers could and did back up verbal attacks on unions with direct action.

The American Civil Liberties Union—not usually regarded as a reactionary organization—has taken sharp issue with the Board's restrictive policy in "freedom of speech" cases. As Gerard D. Reilly, who recently retired from the Board, has put it, "I think an employer should have the right to speak pretty freely to his employees about the long-term effect of unionization of his plants

¹⁰ Minority Views, H.R. 4908, Minority Report, pp. 15-16.

¹¹ Matter of General Electric X-Ray Corporation, 67 NLRB 121.

co-relative with the right of the union to say anything it pleases.”¹² But he has long been a minority member. The majority apparently feels that the employer’s word carries a threat which is not neutralized by the effective protection enjoyed by employees today or by the secrecy of the Board’s elections.

Meanwhile, many an employer is without protection from abuse of the right of speech by unwise union leaders indulging in exaggerated, even untruthful, campaign statements. Most employers hesitate to risk a costly Board proceeding on a charge of unfair labor practice resulting merely from the effort to set the record straight. But some appear ready to challenge the Board’s policy, as during the first five months of 1946 freedom-of-speech cases before the Board were double the number decided in 1945.

COLLECTIVE BARGAINING FOR SUPERVISORS

The Board has been severely criticized—and in the main unjustly—for its handling of the question of the right of supervisory employees to organize and bargain collectively. There is no need here to review the series of decisions by which the Board has haltingly granted what amounts to a green light to supervisory employees. There is, of course, a basic inconsistency in the Board’s position, stemming from the “company union” cases¹³ in which it properly holds that foremen having disciplinary or other—even though limited—authority over employees are agents of the employer and that their actions and statements bind the company. Then when these same supervisors seek to organize for bargaining purposes, the Board holds that they are

employees within the meaning of the act and therefore entitled to its benefits.

Conceivably the Board might have reached a different conclusion; but its dilemma arises out of the failure of the law to define a supervisory employee and to fix his status. Congress will have to tackle this problem again; though, as a practical matter, supervisors who are determined to organize will do so anyway, and, if strong enough, will secure bargaining rights without the aid of the law. The same is true of government employees, who by a much clearer implication are excluded from the act.

A change in the law which would remove supervisors from its protection would slow up the current organizing urge among them and give industry a breathing spell in which to correct the inequities responsible for their desire to join a union. Unwise application of customary union disciplinary rules to a supervisory group can work havoc with a plant organization. Emphatically, this is a situation which should be clarified by Congress.

THE LAW, THE BOARD, AND THE PUBLIC

For ten years the National Labor Relations Board has worked devotedly to establish and protect those basic rights of labor which a democratic country must always cherish. It has had ten years of invaluable experience which must be utilized to serve the public welfare in the new stage upon which our national labor relations program has entered.

Not all facets of the government labor policy have been discussed here; but it is clear that certain practices of employers and of unions work against the legitimate aims of the National Labor Relations Act and hamper its administration in the public interest. There

¹² Gerard D. Reilly, *N. Y. Herald-Tribune*, Aug. 12, 1946.

¹³ Sec. 8(2) of the National Labor Relations Act.

are defects in the law which defeat full accomplishment of the congressional intent. Labor is no longer in swaddling clothes. Its rights are established. It has achieved that equality of bargaining power which Congress sought for it, and emphasis must now be shifted to labor's responsibility in its own no less than the public interest. The uses to which labor puts its recently gained power are bound to have an impact on the public welfare.

As representatives of the public interest, the members of the National Labor Relations Board should take the lead in recommending to Congress a program which would overcome those practices which so often operate to negate the NLRA guarantee of "free-

dom of choice" in the matter of representation for collective bargaining. The Board should take the lead in asking that the law be amended to correct its present one-sidedness, and should change its own rules toward that end. Other changes which would be for the public welfare could most appropriately be recommended by the Board.

The whole framework of law within which the relationships of employers and labor unions are developed needs review. This task could well be undertaken by the members of the government agency which more than any other group has had the opportunity to know in detail what is needed to make the national labor relations program work for the benefit of all our citizens.

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The Voluntary Umpire System

By THEODORE W. KHEEL

THE labor policy of this country is grounded on the settlement of industrial controversies through collective bargaining. The Wagner Act declares that it is the "policy of the United States" to encourage the practice and procedure of "collective bargaining" to bring about the "friendly adjustment of industrial disputes arising out of differences as to wages, hours, and working conditions."

FAILURE TO READJUST WAGES

Labor and industry chafed under the controls that substituted government edict for negotiated agreements during the war. It was for this reason among others that, a brief seven days after hostilities with Japan had ended, the administration lifted the wartime impediments to voluntary negotiation and assigned the job of readjusting wage scales for reconversion to collective bargaining.¹ But the plain fact of the matter is that the assignment failed. That became obvious as production in one important industry after another was brought to a complete halt by strikes over the inability of management and labor to reach wage settlements.

There was, of course, one important limitation placed on this postwar freedom, which undoubtedly complicated the task of collective bargaining. The readjustment of wages had to be made within the price structure then existing. Since no two companies have exactly the same profit situation, the policy assumed that the amount of the wage adjustments would vary in each case, as indeed they had to if price ceilings were not to be altered. In lamenting

the failure of the policy, the President had this to say: "I emphasized that wage adjustments would have to vary from industry to industry, or firm to firm, according to the merits of each situation." But the fact is that they did not, with 18½ cents or slight variants occurring with monotonous regularity.

By February 1946 the administration was prepared to admit failure, and it attempted at that time to reimpose some of the wartime controls over wages.² In a statement accompanying the announcement of the new policy, the President explained:

I had confidently hoped that, as a result of free and sincere collective bargaining, our reconversion program would proceed vigorously and in an orderly fashion. And, indeed under this policy many thousands of wage adjustments have been made by mutual agreement without affecting prices. None the less, collective bargaining has broken down in many important situations. Several major strikes are in progress. Vitally needed production is lagging.

Since it is the law of the land that labor controversies should be settled through free collective bargaining, it is serious business when the President notes that "collective bargaining has broken down in many important situations." And there were yet to come, after he made that statement, the railroad and coal crises, to name only the most important. If we look solely to the postwar controversies over wages, we must perforce join in the current despair over the efficacy of collective bargaining, unregulated by the Government, to achieve the "friendly adjustment" of labor disputes envisioned by

¹ This policy was announced in Executive Order 9599 on August 18, 1945.

² Executive Order 9697 issued on February 14, 1946.

Congress when the Wagner Act was passed.

SUCCESS IN SETTLING GRIEVANCES

Yet, while industry and labor were sparring with each other over wages in the immediate postwar period, they were at the same time effectively adjusting their day-to-day plant disputes, or grievances as they are usually called. And they were settling these grievances under complex but workable procedures that have evolved mainly in the last ten years through the processes of collective bargaining.

To understand this seeming inconsistency, we must separate into distinct categories the two major areas of collective bargaining: (1) collective negotiation between industry and labor over the basic wages, hours, and working conditions that are covered by the general contract between the parties, and (2) the day-to-day dealings of the parties in carrying out the contract.

Collective bargaining over the terms of employment is generally an annual affair; but annual, too, is the fly that usually creeps into the ointment when it comes to wages. The truth is that we have not evolved any accurate or satisfactory method for the determination of fair wage scales. Until we do, we are likely to witness periodic disruptions of production through the inability of management and labor to agree on what adjustments, if any, should be made in existing wage rates. This will be the case whether the wage pressures are upward, as they are at the present time, or downward, as they are likely to become in less prosperous periods. When we turn, however, to the administration of contracts and the settlement of disputes arising thereunder, we find that industry and labor have attained a high degree of accord on basic principles and procedures.

It is not the purpose of this article

to analyze the reasons for the failure of collective bargaining, in so many instances, to resolve wage disputes, but rather to underline the achievements of collective bargaining in the adjustment of grievances. In this way, it is believed, we can, in appraising the need for government regulation of the dealings between management and labor, gain a better perspective of the values of collective bargaining in the "friendly adjustment" of labor disputes.

Collective bargaining was a new experience for large segments of American industry following the passage of the Wagner Act in 1935. In the early years of the act, the question of recognition was most prominent. Only after that issue was settled did the parties turn to the substantive issues of wages, hours, and working conditions.

In the relatively few years that have since elapsed, industry and labor have evolved an intricate system for the adjustment of plant disputes. The most significant fact about this development is that it has grown entirely out of the collective dealings of industry and labor, without the compulsion of any law or regulation.

GENERAL MOTORS CONTRACT

We can view the extent of this accomplishment by comparing the first contract signed by General Motors with the United Automobile Workers, CIO, in 1937, with their current agreement. (Many of the landmarks of industrial relations in recent years have stemmed from the dealings of these two major organizations.) The grievance procedures of the first contract were stated in six brief paragraphs. They did not include any time limit for the disposition of grievances at the various steps in the procedure. There were no prescribed forms for stating grievances. The appellate procedures were vague and indefinite. And, most important

of all, the last step in the procedure for grievances not otherwise settled by the parties allowed referral of the disputes to an impartial umpire only "by mutual agreement of the parties."

Let us summarize the most important provisions of the current contract, which has fifteen pages devoted to the grievance and arbitration machinery, to see the progress the parties have made in developing grievance and arbitration procedures:

1. If a grievance is not adjusted at the first step, it must be reduced to writing, on forms provided by the corporation and signed by the employee. In this way, the parties know at an early date precisely what the employee is complaining about.

2. A grievance appealed to top local management must be ruled upon within fifteen days after it is filed. This ensures speedy disposition of grievances—a matter of grave importance to all concerned.

3. The union must appeal any such decision within five days if it desires to go any farther. Thus, the union is also required to act quickly if it is not satisfied with local management's disposition of a grievance.

4. The contract provides that minutes of meetings between the shop committee and the local management shall be kept and shall include date of meeting, names of those present, statement of each grievance taken up and summary of the union's contentions if grievance is not settled, management's written answer on each grievance with reason for same if answer is adverse, any other high lights of the meeting, and date of approval and signature of the designated officials. In this way, controversies over what happened can be avoided.

5. If the shop committee wants to appeal beyond top local management, it must file a written "Notice of Unadjusted Grievance" and then prepare

a complete "Statement of Unadjusted Grievance." There are forms for these documents and rules governing how, when, and where they shall be filed.

6. The regional director of the UAW-CIO then reviews the case to determine if an appeal should be made. He or his representative can visit the plant for the purpose of investigating the grievance, but only if a visit will help in determining whether to go ahead with the case. The contract spells out very carefully certain rules governing any such visits, so that this privilege may not be abused.

7. If the regional director decides to go ahead with the appeal, he must file a "Notice of Appeal" and he must act within thirty days after the local plant management makes its decision. A provision is included for reopening a case on the discovery of new evidence.

8. Such an appeal goes to an appeal committee composed of two representatives of each side. The parties have included in their contract rules governing the membership of this appeal committee so as to get the greatest usefulness from it. This is a device for settling grievances without resort to arbitration by a third party, with the values that are inherent in the settlement of disputes by the parties themselves.

9. If not settled by the appeal committee, management must give its decision on the grievance within five days.

10. If the union is not satisfied with the decision, it can then take an appeal to the impartial umpire. Contrast this with the provision of the 1937 contract that an unsettled grievance "*may be* referred to an impartial umpire by mutual agreement of the parties."

11. The authority of the impartial umpire is also set forth in clear and unmistakable language. He is given the power to rule finally on most grievances which the parties cannot themselves settle. Thus, there is a method

for bringing disputes to a conclusion if not otherwise adjusted.

The arbitration of unsettled grievances is, of course, the most basic part of the entire procedure. The importance of the impartial umpire system lies as much in the mere existence of a method for ultimately settling the dispute as in the actual arbitration of grievances. As long as the parties know that they will eventually reach a conclusion of the dispute, they will frequently try to agree upon a settlement themselves. Of course, there is a real danger that some companies or unions will use the arbitration machinery to shift the responsibility for adjusting difficult complaints to an outside party. In this connection, it is well to note the extensive measures in the General Motors agreement for the adjustment of grievances before arbitration.

GROWTH OF ARBITRATION OF GRIEVANCES

Arbitration is not a new method for settling labor disputes; nor, for that matter, is the specialized use of arbitration of grievances under a contract. It is necessary, of course, to make a sharp distinction between arbitration of the terms of a contract and arbitration of disputes arising under the contract. The differences are substantive and procedural. Arbitration of disputes arising under a contract has developed much more than has arbitration of the provisions of an agreement, just as procedures for settling plant disputes have developed more effectively than has collective negotiation of contract terms.

Many industries, including, for example, the coal and garment industries, have had umpire systems since the beginning of the century. But there has been a rapid increase in the use of arbitration of grievances since 1937, and particularly during the war years. With the spread of arbitration of griev-

ances has come a better understanding of its function, improvement in its procedures, and the development of techniques for defining its scope.

Management approached the arbitration of grievances with considerable hesitancy. Labor, generally, took the lead in seeking it. In the main, management feared delegating to a third party the right to make decisions which it believed were properly within the scope of management's activities. This fear has been greatly alleviated and the way paved for the general acceptance of arbitration of grievances through various devices that have been evolved through collective bargaining.

For example, it is customary to provide that the arbitrator shall have no power to add to or subtract from the terms of the agreement, but merely the power to interpret and apply the agreement to disputes submitted to him. The agreement fashioned by the parties thus defines the scope of the arbitrator's jurisdiction. In a sense, the contract is similar to a statute which courts are asked to apply to disputes arising under it.

It is also customary, in some cases, to exempt certain types of disputes from the arbitrator's jurisdiction. The General Motors contract, for that matter, limits the impartial umpire's authority to certain designated sections of the agreement, and exempts all others.

If the arbitrable items of a contract are limited, a company will generally have to accept, in exchange, a limited no-strike clause. These two provisions are inseparably connected. As long as an avenue for the final adjustment of all disputes arising under a contract is available, a company will be likely to insist upon an unconditional no-strike pledge from the union. But if some disputes cannot be taken to arbitration, the union is apt to insist upon its right to strike over such matters. This

principle is recognized in the General Motors contract, although the strike weapon is available to the union in disputes over nonarbitrable issues only after all procedures for settling the dispute have been exhausted, and only at that time if sanctioned by the international union.

The tendency, however, is to permit all types of disputes to be taken to arbitration, with the provision that the arbitrator can merely interpret and apply the agreement to the facts of the dispute. In other words, a claim by a union that exceeded the benefits granted by the contract could be taken to arbitration, but the arbitrator would have to deny the claim in applying the contract to the dispute.

With the growth of arbitration of grievances, there has come into existence a body of experienced persons who devote all or most of their time to arbitration. Some of these persons are well known to companies and unions and are selected by them directly to handle their disputes. Where the parties fail to agree on the selection of an arbitrator, they customarily ask the United States Conciliation Service, the American Arbitration Association, or a State Board of Mediation to select an arbitrator for them. These agencies generally choose from among the group of persons active in labor arbitrations in the community in which the parties are located. Thus, we have in effect a body of "judges" to handle labor arbitrations.

The degree of acceptance of arbitration of grievances by industry and labor can be seen in a resolution adopted by the National Labor Management Conference called by the President shortly after the war ended. All thirty-six industry and labor members unanimously agreed that companies and unions "should provide by mutual agreement for the final determination of any unsettled grievances or disputes involving

the interpretation or application of the agreement by an impartial chairman, umpire, arbitrator, or board." This was the most significant accomplishment of the Conference, and its importance was obscured, in large measure, by the inability of the members of the Conference to agree on any of the other major questions before them.

ACCOMPLISHMENTS THROUGH COLLECTIVE BARGAINING

What it all adds up to is this: In the period of about ten years, industry and labor have worked out through collective bargaining a method for settling plant disputes which may be considered a system of private labor courts. There is a procedure for dealing with plant disputes, techniques for settling them by agreement or submitting them to arbitration, and a body of "judges" to pass upon unsettled disputes. The system is flexible and can be fitted to the particular needs of individual companies and unions. There is no law requiring the establishment of these "labor courts," and no regulations or rules governing them. The entire system stands as a tribute to the effectiveness of collective bargaining and demonstrates what companies and unions can accomplish through joint negotiations.

The accomplishments of industry and labor in developing through free collective bargaining a system for settling their day-to-day disputes suggest that they may also be able to solve through similar channels the difficult problem of a fair wage as well as the related problem of job security. The attention recently given to ability to pay as a factor in wage determinations indicates, whether or not the principle is accepted in whole or part, that industry and labor are weighing the elements that should enter into wage negotiations. To this should be added the growing interest in such aspects of job security

as the annual wage and the adoption by many companies of group life insurance plans and provisions to take care of employees in case of accident or sickness. All of which indicates that industry and labor are tackling the major problems of their collective relationship. It is to be hoped that they can be as successful, without government intervention, in resolving these problems as they have been in working out grievance and arbitration procedures.

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Picketing: Its Use and Abuse

By HERMAN FELDMAN and HARRY P. BELL

THE country has long recognized the need and the right of labor to engage in picketing. But in the past few years citizens all over the land have been puzzled and troubled by some of its manifestations. Though desiring to keep out of labor disputes, believing them likely to subside the more easily and naturally without intervention, the public simply has not been able to ignore some of the purposes for which picketing has recently been invoked and some of the forms in which it has been applied. For these purposes and methods are raising anew grave questions, not merely of the rights of employers and of other workers but also of citizens generally.

While strikes have been discussed extensively in the general literature of labor relations, picketing, except in law journals and legal treatises, has long been treated as a mere incident of labor disputes. Yet in recent years picketing has deserved more attention as a social phenomenon and as an ethical problem. For picketing is marked by a strange, almost mystic potency. Its roots are embedded in a past era when almost any activity of labor was in the social interest and when solidarity was considered more important than discrimination between the immediate right and wrong. Hence a group calling itself a union need but post someone with a placard at a given place, and a taboo almost as withering as those of primitive societies may begin at once to operate. Teamsters may refuse to deliver, employees to work, or customers to buy. Then, if the symbol somehow fails to achieve this magic result, its sponsors may mass in the streets and bar entry to whom they will, creating a problem with which government itself sometimes cannot cope.

Picketing is a historic function of labor and should be seen in its proper perspective, for much of the effectiveness of labor organization has depended upon it. Indeed, the magnificent contributions of unionism of the past century to workers and to society would not have been possible without the unshackling of chains which custom and law had forged around vigorous group action. It would be tragic if today new measures were to hamstring unions in their power for service, to curb free speech, or to bar dramatic demonstration. But it would be equally unfortunate if, through a social lag in observation and thought, we failed to consider some of the abuses with which picketing has come to be associated and did not accept the need of establishing suitable norms for its exercise.

The present article is concerned only with these excesses. It reviews some of the original purposes of picketing, as compared with certain of its newer uses. It compares some of the customary methods of picketing with its recent applications. It then examines the present regulation of picketing and the extension of control which may be required.

PAST USES OF PICKETING

Picketing, as old as the labor dispute itself, was associated with the earliest recorded labor cases in this country. When newspapers were few and the space they gave to labor's side was scant or biased, the men who marched to and fro with printed signs served several purposes. They informed the public that here was a dispute or an injustice. They helped to maintain group morale and to keep the plant from operating. Most important, however, was the obvious desire of the

strikers to safeguard their jobs against those who might unknowingly apply for their places or those whom the employer, then unrestrained legally in his antiunion proclivities, might engage. To prevent this they often used the picket line to threaten would-be "scabs" and to intimidate the employer into acceptance of their terms.

Picketing for such purposes, though occasionally associated even with violence, evoked wide sympathy from people who felt with oppressed labor and feared that restrictions would merely augment the power of an aggressive capitalism. The attitude toward the abuses of picketing thus had something of the flavor of subsidies to infant industries, given on the premise that they required aid and support so that they would attain strength and maturity. Hence it came about that picketing by labor groups was successively relieved of various legal restraints and made an easy and powerful weapon of labor.

With the extraordinary rise of unionism in membership, vigor, and political strength, it was to be expected that various groups would require time to become accustomed to the discipline of organization and to new laws. Thus, while some organizations remained mindful of their responsibility, others exploited their privileges and used them unjustly. Hence a reconsideration of the legal status of picketing is a necessary precaution for the future. This may be seen best by reference to some of the questionable purposes and undesirable effects of picketing, even when conducted in a peaceful and orderly manner.

MINORITY PICKETING

When a union maintains that it is the choice of the workers in a plant, or when two or more groups contend for membership, the procedure established by the National Labor Relations Act

and by similar acts in several of the states is an official poll to determine the desires of the majority. But this wise and democratic solution is nullified when some minority group, immediately after the election, pickets to close the plant and to force the employer to deal with it. William Green, president of the American Federation of Labor, has pointed out how some picket lines may merely take advantage of workers' loyalty. In the April 1941 issue of *The American Federationist*, he characterized as a menace to the defense program "the strike by a minority group to gain control by strategy that has not been earned on a basis of union membership."¹

In such cases the National Labor Relations Board does not offer any relief. Some of the states, however, have ruled against such picketing. In 1942 the New York Court of Appeals, by a 4-3 vote, took the view that after the employer had signed a contract with the rival union duly certified by the State Labor Relations Board as representing the majority of its employees, "any labor dispute within the provisions of the New York State Labor Law ended."² In 1940 the Supreme Court in the State of Washington had held similarly in a case of minority picketing against a closed-shop contract with a union certified by the NLRB.³ Under the Colorado and Wisconsin labor relations acts, refusal to accept the majority decision is declared unfair labor practice. The Case bill, which passed both houses of Congress a few months ago but was vetoed by President Truman, made such a strike illegal and punishable.

There have been proposals from many

¹ Pp. 20-21.

² *Florsheim Shoe Co. v. Shoe Salesmen's Union*, 288 N. Y. 188.

³ *Bloedel Donovan Lumber Mills v. International Woodworkers of America*, 102 Pac. (2d) 270.

quarters for amendment of the NLRA to include a list of unfair labor practices by labor groups. One of these prohibitions should make it an unfair labor practice for a union to picket instead of petitioning for an election in order to establish its standing. If such a rule were adopted it would, of course, be incumbent on the people to provide adequate staff and facilities to labor relations boards so that undue delay in holding elections would not play into the hands of employers. But some delay and some patience are always to be expected in the administration of any law.

A second prohibition would make it unfair labor practice for a union to picket a business after being rejected in such a poll. The right to solicit workers in the effort to change their allegiance still is available to the defeated group. Further, under NLRB practice it may after a reasonable period have another chance to demonstrate that it has won the allegiance of the majority. But a minority group should not be permitted to force an employer to violate existing law and to go counter to the expressed wishes of the majority in order that he may avoid being punished by the picket line.

Other attempts by minorities to enforce their will by picketing should similarly come under the ban of unfair practice, whether enforced by the NLRB or some other agency. One of many such examples showing the need of protecting the majority is that occurring during the war in the submarine yards of the Electric Boat Company, Groton, Connecticut. In spite of the fact that two days before, in a government-administered strike vote under the Smith-Connally Act, 6,334 workers had voted against the strike as compared with only 1,777 for it, the plant was picketed by the losing group.⁴ Is not

such "freedom" inimical to the larger freedom of the majority? Would it not be in the interest of the public that such confusing action be subject to some rules of orderly decision and fair play?

PICKETING BY NONEMPLOYEE GROUPS

Another purpose of picketing which is questioned is that directed against an establishment for which there are no members of the union working. Once such picketing had its place because unions were denied the opportunity to organize. Today no group is prevented from agitating its case, and, if it obtains any showing of interest, it can earn from the NLRB an official balloting. What important social purpose, then, is likely to be served by the picketing of a plant where none of the employees involved wishes to associate himself with the picketing group?

True, some situation may be imagined in which that is the only way to reach the employees, but it is difficult to think of a well-conducted union's finding it vital today to operate in that fashion. More likely, only some unattached or irresponsible group will resort to this method. Further, it is an open invitation to the racketeer who, merely by posting pickets, may confuse other workers and the public and exact his price from the employer before calling off the "strike."

Before 1941 many courts sustained the right of unions without any membership whatever in a company to picket it, but since the identification of picketing with free speech in a United States Supreme Court decision,⁵ all courts have been obliged to hold similarly. In that sweeping pronouncement the Court decided that as long as a union's picketing was peaceful it could not constitutionally be enjoined, even in the absence of a labor controversy between

⁴ *New York Times*, Aug. 15, 1944.

⁵ *A. F. of L. v. Swing*, 312 U. S. 321 (1941).

the picketed employer and his employees.

Identification of picketing with free speech, which appears erroneous on both theoretical and practical grounds, will be considered later. The sanction given to nonemployee picketing at the present time disregards developments of recent years and harks back to conditions existing before the NLRA, when employees felt intimidated and only outsiders dared to organize them. Much has happened in the past five years to indicate that protection both of the right of the majority to organize and of the employer dealing with the majority is needed. The Court must be impressed by that experience. If, therefore, Congress were to amend the National Labor Relations Act by specifying principles of fair practice, similar to those suggested for minorities, with respect to picketing by nonemployee groups, the Court might well be led to sustain such legislation.

PICKETING BY LABOR AGAINST LABOR

Another aspect of present-day picketing is its vastly greater use in disputes between unions in the same federation and in aggressive warfare between rival unions in rival federations, leaving the employer and the public helpless between the two. "Jurisdictional disputes" (a term which properly designates differences between unions which have been granted formal jurisdiction over an area of activity by a parent organization such as the AFL or the CIO) occur because each of two or more unions within the same federation believes that under its charter certain work belongs to it and therefore to those who are or become its members.

Jurisdictional disputes have been the occasion for some of the most bitter, dramatic, and costly strikes in the history of labor relations. The farseeing labor leaders have recognized its menace

and have manfully tried to minimize it. Such picketing has, however, for years plagued truck delivery and building construction throughout the country, and shipping and motion picture production on the Pacific coast. A willingness to submit the issues to private or government arbitration could solve many such disputes.

The legal attitude toward jurisdictional picketing stems from the days when employers were able to favor one union against another and when reprehensible practices were at their disposal. Liberal courts therefore upheld the rights of union groups to defend themselves by picketing the group awarded the union contract.⁶ The United States Supreme Court has continued such endorsement. In the famous case of the *United States v. Hutcheson*,⁷ it ruled that the picketing in the jurisdictional dispute between the carpenters' and the machinists' unions was in a bona fide labor dispute, and that since the picketing was conducted in a lawful manner, both the Clayton Act and the Norris-La Guardia Act forbade the issuance of an injunction.

Many are inclined to question the wisdom of the Court in this case. A well-framed Federal statute declaring such picketing an unfair labor practice against employers and other workers is needed. In view of the circumstances of recent years, the Court would perhaps not upset such a law by Congress and similar legislation by the states.

SOME ARBITRARY USES OF PICKETING

Seasoned labor leaders have long learned the importance of maintaining

⁶ See, for example, *Stillwell Theatre, Inc. v. Kaplan*, 259 N. Y. 405 (1932).

⁷ 312 U. S. 219 (1941). See also *Thornhill v. Alabama*, 310 U. S. 88 (1940); *Carlson v. California*, 310 U. S. 106 (1940); and *Thompson Products Co.*, 70 NLRB No. 3 (1946).

discipline in their organizations. The wiser men among them sense that the economic power and the legal status of labor unions require a commensurate responsibility. They are often embarrassed, however, by hotheaded individuals and recalcitrant groups in their ranks, or in other unions, who engage in picketing for reasons indefensible in principle and harmful in practice.

An example of such objectionable picketing is that used in a strike against the application of seniority to Negroes in a naval ordnance arsenal. The action was denounced by the president of the union as "a flagrant violation of the constitution of the UAW (CIO)" and as a "display of vicious race prejudice."⁸ Opposition to necessary disciplinary measures taken by plants against workers who left the plant during working hours or who deliberately loafed on the job or who, during the war, pegged production on vital engines, has resulted in picket lines, with further attempts to "persuade" other nearby plants to join the strike.⁹ The issues involved may be fully covered by the grievance clause of a functioning bargaining contract. Yet a wide stoppage may be forced. In a conspicuous instance, Under Secretary of War Patterson had to denounce the proposed picketing of sixty-four war plants because of the dismissal of a single employee in one company which was under government operation.¹⁰

Aside from such "outlaw" activity, picketing may be used to set a price at which goods are sold or to make arbitrary decisions on policy. As a curious instance, Petrillo, when president of the Chicago Federation of Musicians, in his feud with John L. Lewis, insisted that the latter's name be deleted from three

current plays in that city, on pain of establishing a picket line around the theaters involved.¹¹ Picketing to influence the NLRB or the National War Labor Board in a forthcoming decision or in defiance of its award has been undertaken in various instances. That is why many voices have been raised in demand of a code of fair practice imposed upon unions as well as upon employers. This should define the legitimate uses of picketing and list certain antisocial aims as improper.

SECONDARY PICKETING

Such a code will have difficulty with picketing which does not arise out of grievances among the employees in a plant but merely out of the disinclination of workers to pass anybody's picket line. This often occurs in secondary picketing and in sympathetic strikes. In secondary picketing a store selling furniture may find itself picketed because the manufacturer from whom it has bought refuses to grant the closed shop. Or perhaps the picketed place is one which advertised in a paper whose working staff is on strike.¹²

In the main, the law permits most of these practices. A New York court decision that for a while had the most influence over rulings on secondary picketing developed the doctrine of the "unity of interest" as embodied in the following: "Picketing may be carried on not only against the manufacturer but against a nonunion product sold by one in unity of interest with the manufacturer who is in the same business for profit."¹³ However, it was ruled that the signs borne by the pickets must

¹¹ United Press dispatch of December 26, 1939.

¹² See, for example, *People of N. Y. v. Fleishman*, 36 NYS (2nd) 559 (1st Dept.) 1942.

¹³ *Goldfinger v. Feintuch*, 276 N. Y. 281 (1937).

⁸ *New York Times*, June 19, 1942.

⁹ For example, strike in Chevrolet gear and axle plant, *New York Times*, Aug. 16, 1944.

¹⁰ *Ibid.*, Oct. 11, 1944.

clearly indicate that it was the particular unfair product being sold, and not the person (retailer), that was the object of the pickets' animus. But the question is still controversial, for courts in Colorado, New Jersey, Ohio, and other jurisdictions have voided secondary picketing.¹⁴

The highest court in the land ruled in 1940 on a case involving a man named Ritter whose cafe in Texas was picketed by carpenters because a contractor he employed to erect a building a mile and half away was in dispute with their union. A Texas court had enjoined this picketing on the ground that there was an absence of a labor controversy between Ritter and his employees. The United States Supreme Court, by a 5-4 vote, affirmed this injunction and stated that Texas could properly deem it "desirable to insulate from a dispute an establishment which industrially has no connection with the dispute" and that "picketing may be limited to the area of the industry in which a labor dispute arises."¹⁵ However, the court reversed a New York injunction because the picketing was simply pursuing a product within the allowable confines of the industry.¹⁶

The Case bill, previously mentioned, offered one solution. It would have made secondary boycotts subject to criminal and civil proceedings under the antitrust laws. Perhaps this course, in the present stage of labor control, is premature. There may be too many administrative difficulties or too many dangers to the legitimate activities of unions to regulate this before other

forms of picketing have been brought within the law. An immediate aid would be for citizens and workers first to learn to apply individually or in their organizations a more discerning intelligence in respect to picketing, and thus to narrow its possibilities for injustice. This proposal is therefore further explored.

THE CITIZEN AND THE PICKET LINE

The individual who in the past accepted every picket line as a barrier did so because the chances were that it was against exploitation of labor. But it has been shown that in many cases today the dispute is between rival groups of labor or between minorities and majorities. Thus one who supports any picket line may find himself aiding an outlaw strike disapproved by responsible leaders, or siding with a group of workers far less deserving than those being picketed, or upholding a cause with which he is entirely out of sympathy. Should not the principle on which an intelligent citizen operates in such instances be considered afresh? Should he not be sparing in his support of the picket line until he has had some time to find out for himself who authorized the picket, what the issues are about, and with which side of the dispute his sympathies belong?

Labor leaders themselves are becoming practical about such obstructions, as the frequent cases of orders to disregard pickets show. Indiscriminate respect by individuals for a picket line is denounced as "yellow" even by such a practitioner of picketing as the head of the Teamsters Union, Daniel J. Tobin. He urged that the members of his large union disregard picket lines unless ordered to observe them by their union headquarters.¹⁷

If a partial solution of the picketing problem is that workers and others

¹⁷ *New York Times*, May 31, 1945.

¹⁴ See Ludwig Teller, *Labor Disputes and Collective Bargaining* (New York: Baker Voorhis & Co., Inc., 1940), Vol. 1, pp. 375-80.

¹⁵ Carpenters and Joiners Union, Local No. 213 v. Ritter's Cafe, 315 U. S. 727-728 (1940).

¹⁶ In Bakery and Pastry Drivers & Helpers Local 802 of the International Brotherhood of Teamsters *et al.* v. Wohl *et al.*, 315 U. S. 769 (1942).

faced with a picket line should show an independence of mind and a selective judgment, this presupposes full freedom to make such a choice. But this is not the case, for the methods occasionally used in picketing add a complicating and at times dangerous aspect to the picketing problem.

If, when picketing, merely the right to free speech is desired, a few people with placards at each approach serves this purpose best, for it permits the worker or the citizen to learn freely what it is all about. When a cause has reasonable support, there is usually no necessity to post more than a handful of pickets at a plant in order to keep others out. As one of many examples, the huge Detroit plant of the United States Rubber Company was held strike-bound for two weeks in the summer of 1945 by a twelve-man picket line.¹⁸ Further, in many cases the absence of a group of key workers can close a plant. This, indeed, is why the emphasis in this article hitherto has been on the *purposes* of picketing, for the *methods* may be beyond reproach. But as everyone knows, within recent years picketing has sometimes not been peaceable, and its aspect in conspicuous cases has been that of hundreds or thousands of workers circling a plant.

MASS PICKETING IN RECENT MANIFESTATIONS

Mass picketing, far from being a mere matter of large numbers, is objectionable for several telling reasons. First, it usually consists, in fact, of close-order marching which would prevent anyone from getting through without a pitched battle. Second, the massing of pickets in one spot encourages violent excesses which might never be exhibited by the same individuals if not so congregated. Third, it creates overwhelming problems of law enforce-

ment for community authorities. This has been abundantly evident in the front-page news and photographs of recent months.

An outstanding example was the "picketing" at the Ford plant in Windsor, Ontario, where some 12,000 strikers, along with their sympathizers, openly displaying such weapons as automobile jack handles, sections of rubber hose, and bricks, commandeered all private citizens' cars, buses, trucks, and moving vans which happened to be on the streets.^{18a} To head off the Royal Canadian Mounted Police, many thousands of vehicles were used for the construction of a barricade on a two-mile front at the entrances to the plant. Anyone resisting the use of his car was assaulted. Citizens who appealed to the City Hall were "shrugged away by city police authorities who inquired 'What can we do?'"—a response which recalls similar episodes in the early Hitler terrorism in Germany. Is this to be considered fair picketing, or in any way condoned?

In many of these cases of mass action such picketing was not necessary to protect the strikers' jobs, and the managements were willing to give assurance that the plants would not operate. Moreover, the Byrnes Law of June 29, 1938 bars the transportation of strike-breakers across state lines for the purpose of interfering with "peaceful picketing," and interpretations of the National Labor Relations Act by its Board go far in protecting the striker in retaining his job after a labor dispute.

A new feature of mass picketing was prominently brought to attention in the long Yale & Towne strike at Stamford, Connecticut, beginning on November 7, 1945. Here the president of the company "got a backward push" when he tried to enter the premises,¹⁹ and ap-

^{18a} *New York Times*, Nov. 6, 1945.

¹⁹ *New York Times*, Nov. 9, 1945.

¹⁸ *Business Week*, Aug. 11, 1945.

parently only two executives obtained passes to the property. For several days the general manager attempted to get access to the plant for foremen and superintendents. When, some days later, the power-house guards and employees deserted the plant, union pickets barred mere relief crews designed to prevent fire hazard and other damage.

The danger of these tactics to unions, as well as to government, has been recognized by certain of the outstanding labor leaders. They do not condone such unruliness. Yet the incidents described have become so marked a feature of some recent disputes that they have aroused a critical attitude in civic agencies friendly to labor. The American Civil Liberties Union, though upholding nonintimidatory mass picketing, has felt it necessary to issue a public appeal to trade-union leaders to restrain their members from blocking access to company property, on the ground that employers and maintenance workers have the right to such access. It also voiced the right of the independent workers who are not desirous of settling too many issues by strikes to enter the plant unmolested. Its outspoken statement of January 1946 says:

No claims of the rights to picket justify the use of force to prevent access to plants on strike by those who are willing to cross picket lines. . . . The right of access, not only of these persons, but of any and all others, is undebatable. The two rights—of picketing and of access to places picketed—are not conflicting.

With respect to imported strikebreakers, who the ACLU believes are not in any right sense employees, it takes a different stand. But, in the main, individuals who wish to pass picket lines today are not the hired strikebreakers supplied by agencies which assemble thugs and irresponsible people. One who observes the events and the hasty

actions of unions which lead to strikes can well understand why in some cases a large majority in a plant or industry should prefer more constructive means. Many believe that under present conditions of freedom for unions those individuals who disagree should be protected by law in their course—unpleasant in any circumstances—without fear of physical harm or union punishment.

CERTAIN OBJECTIONABLE PRACTICES OF PICKETS

Picketing of homes of executives or fellow employees has been an occasional resort of militant unions. In the strike in New York City against the Western Union, pickets with placards reading "A Western Union scab lives here" marched for an hour in front of the home of an employee who, having worked with the company for thirty-eight years, did not wish to honor the picket line set up in defiance of a government award.²⁰ Such signs borne by the pickets punish wives, relatives, and children, and are a compound of meanness and illegality.²¹

Picketing of homes has been generally frowned upon by officials and by the courts. The judicial attitude on the matter is illustrated by that of a Minnesota court, which stated: "The home is a . . . sanctuary of the individual and should not be interfered with by industrial disputes."²² In a case of this sort in Detroit the court convicted the local president of the union and sixty-two other unionists on the charge and levied a fine on all.²³ In one important instance in which the United States Supreme Court expressed itself on the issue, the Court identified picketing

²⁰ *New York Times*, Jan. 22 and 23, 1946.

²¹ See facts in case of *Busch Jewelry Co. v. United Retail Employees Union*, 281 N. Y. 150, 22 NE (2d) 320 (1939).

²² *Anderson v. Ueland*, 197 Minn. 518, 521 (1936).

²³ *New York Times*, May 16, 1946.

with free speech; but the justices significantly declared that "the power and duty of the state to take adequate steps to . . . protect the privacy . . . of its residents cannot be doubted."²⁴ The Court later placed its stamp of approval on an injunction granted by a Wisconsin court banning the picketing of homes.²⁵

Why then does such picketing continue to occur? A positive statutory declaration against this practice, in Federal and state law, leaving no doubt that it is illegal, would be helpful in dealing with it.

Finally, the action of pickets on the picket line must be thoroughly regulated. People should not have to run the gauntlet of such epithets as "rats" and "skunks," be subjected to violence on a public highway, or be interfered with in public conveyance. Placards borne by pickets may be libel rather than truth, and some courts have taken cognizance of such abuses. As an instance, thirteen truck drivers who left the employ of a company in Mount Vernon, New York and picketed with untrue placards were found guilty of disorderly conduct and fined.²⁶

The regulation of unruly picketing tactics will not hinder unions in campaigns for dramatic and active persuasion. They may still adopt such new wrinkles in picketing as, for example, that done by airplane for three hours at New Canaan, Connecticut.²⁷ But to permit pickets extraordinary privileges of violently interfering with citizens in their own decisions concerning labor issues is to weaken vastly the protections set forth in the Bill of Rights.

²⁴ *Carlson v. California*, 310 U. S. 106 (1940).

²⁵ *Allen-Bradley Local No. 1111, United Electrical, Radio and Machine Workers of America v. Wisconsin Employment Relations Board*, 315 U. S. 740 (1942).

²⁶ *New York Times*, March 17, 1943.

²⁷ *Ibid.*, Jan. 15, 1946.

BETTER ENFORCEMENT OR BETTER LAWS?

Some who have studied the law of picketing and have pieced together the instances in which unfair methods have been declared illegal in various jurisdictions hold that among the states and localities a permissible pattern of picketing has developed. Broadly speaking, it runs substantially along these lines: Picketing should be carried on by a few men at each plant gate, bearing truthful signs or placards of the facts of the dispute, patrolling continuously in open order with a reasonable space between them, speaking only in conversational tones to workers entering or leaving the premises, uttering no threats and using no abusive language, and in no way barring ingress to or egress from the plant. The point is then made that officials everywhere need but more vigorously enforce existing laws against the disturbance of peace, molestation, trespass, jostling, intimidation, assault and battery, and other actions regarded as lawless when performed by individuals or mobs.

Failure to enforce the law may be illustrated by the defiance by the United Electrical and Radio Workers (CIO) in Bloomfield, New Jersey and Kearny, New Jersey, of an injunction against mass picketing. In Bloomfield the pickets were told by the mayor that the police would make no arrests,²⁸ and in Kearny the police "assisted strikers in maintaining their picket lines."²⁹ On the other hand, there are many examples of strict and courageous enforcement of the law; of injunctions which limit the number of pickets to the few adequate for the primary purposes of picketing; of state troopers' dispersing pickets who defied a court order and tripped supervisors trying to enter the plant;³⁰ of

²⁸ *New York Times*, Feb. 16, 1946.

²⁹ *Ibid.*, Feb. 28, 1946.

³⁰ *Ibid.*, March 26, 1946 and Aug. 6, 1946.

persons arrested during a riot of workers and given an alternative of heavy fines or fifty days in jail.³¹ Why then is such an enforcement not the general rule throughout the states?

Many people feel that the gaps and uncertainties in Federal and state laws leave enough doubt in the minds of courts and public officials generally to weaken their sense of responsibility and create a chaotic condition in interpretation and enforcement. Better laws are therefore necessary to minimize such doubts. Because there is no definite code of conduct, unions are inclined to try picketing tactics which they hope will be condoned as warranted by the circumstances. Moreover, the illegal purposes of picketing have not been plainly distinguished. And so, in the absence of clearer legal directives and guideposts, unions will continue to use doubtful techniques and to invent others which they think will help them to gain their demands but which may properly be regarded as abuses of power. If such actions were designated unfair labor practices and if the regulatory act were properly drawn, observance would become more enforceable at law.

This would perhaps best be done if the terms of the National Labor Relations Act, or the provisions of any new Federal laws under consideration by Congress, were framed to enunciate certain clear principles of what is unfair with respect to the purposes and the methods of picketing. Some of these have been indicated here. Then the preliminary interpretations of the rules by a sympathetic, specialized board, such as the NLRB, would both aid labor and be a guide to the many justices and officials who have to enforce the law. Similarly, state laws and state boards of labor relations should then codify and clarify local practice.

³¹ *New York Times*, June 27, 1946.

LEGAL REMEDIES FOR ILLEGAL PICKETING

Assuming that standards of fair practice with respect to picketing are written into the law and developed in more detail by the enforcing agencies, what methods of enforcement would be appropriate to implement such a code?

The most frequent proposal for punishing a union which fails to conform is the forfeiture of collective-bargaining rights under the National Labor Relations Act. The effectiveness of such a penalty upon a strong, well-intrenched union is hard to see. Withdrawal of these rights would not lead employers to cease recognition of such unions, but if it did, industrial warfare of a most bitter sort would be the consequence. The burden of enforcement for unruly and unfair acts cannot be borne by the employer, because of his vulnerable economic and legal position. Only if he has reached the limit of his patience and as an act of discipline is willing to court a long strike is the remedy applicable at all. Even then, the handicaps are severe. The National Labor Relations Board holds that an employee guilty of misconduct, extending even to some degree of violence, is still an employee and still therefore entitled to the protection of the act.³²

Legal remedies, therefore, must be available, involving cease and desist orders enforceable at law. From this point, what then? How obtain the quick remedial action which the law provides in other violations? Resort to the injunction is the obvious protection, but in the case of labor disputes this remedy, for certain reasons to be indicated, has been seriously impaired.

The injunction was so badly abused by antilabor forces prior to 1932 that

³² See Harold W. Metz, *Labor Policy of the Federal Government* (Washington: Brookings Institution, 1945), p. 52.

the Norris-La Guardia Act, also known as the Federal Anti-Injunction Act, was put through Congress in that year. It was a timely measure in a critical period. It decrees that "no court of the United States . . . shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute," except for reasons stated in the rest of the act. The right to obtain an injunction in picketing is broadly denied where any group gives "publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence." If fraud or violence is involved, the injunction is issuable only when the injury complained of is substantial, irreparable, and greater than will be inflicted upon the defendant; when no other adequate remedy at law is available; and when public officers are unable or unwilling to furnish adequate protection.

These and other provisions stem from the years when labor organizations desperately needed such aid to agitate and to exist. The act was therefore interpreted by the courts in a way both to protect labor against antiunion campaigns and to accord them exceptional immunities.

PICKETING IDENTIFIED WITH FREE SPEECH

As previously stated, the United States Supreme Court has in recent years taken the position that picketing is part of the constitutional right to free speech. This was expressed in 1937 in the *Senn* case,³³ merely as a dictum, but it had its effect at once in a number of state court decisions. The definitive holding by the Court that picketing is akin to free speech was in

1940, in two important cases decided the same day.³⁴ In the *Carlson* case, for example, the language of the Court was that "the carrying of signs and banners . . . publicizing the fact of a labor dispute in a peaceful way . . . is secured to every person by the Fourteenth Amendment against abridgment by a state." This identification of picketing was made even closer in the *Swing* case, previously cited. Thus limitations upon picketing by state or local legislatures and courts were curbed and their legality made a matter for Federal courts, with the Supreme Court having final jurisdiction. Naturally, state courts felt bound to take a rigidly negative attitude on efforts to curb picketing abuses.

In the opinion of a leading study on this subject, the identification of picketing with free speech "is a threat to the role of courts in labor controversies"³⁵ and narrows greatly the possibility of control of abuses through the state courts. The study holds that picketing is a form of economic pressure and that "its legality and enjoynability may best be solved under the law of torts."³⁶

RESULTS OF ANTI-INJUNCTION DECISIONS

The results of the Anti-Injunction Act and of various decisions in which the resort to an injunction has been barred have been variously interpreted. A recent analysis of the situation makes the surprising statement: "Today there are practically no limits on the right to picket."³⁷ A mimeographed statement issued in the spring of 1946 by Senator Ball, when the Senate Committee on

³⁴ *Thornhill v. Alabama*, 310 U. S. 88; and *Carlson v. California*, 310 U. S. 106.

³⁵ Ludwig Teller, "Picketing and Free Speech," *Harvard Law Review*, Oct. 1942, p. 180.

³⁶ *Ibid.*, p. 204.

³⁷ Metz, *Labor Policy of the Federal Government*, *op. cit.*, p. 52.

³³ *Senn v. Tile Layers Protective Union*, 301 U. S. 468.

Education and Labor reported out the Case bill, says on this point:

Supreme Court interpretations of the Norris-La Guardia anti-injunction act and the Clayton Act have made the activities of unions, however wrong or undesirable, or even unlawful if carried on by any other group, completely above and beyond the law.

Others regard these statements as overdrawn, and point to the approval of the injunction in numerous instances.

It has, indeed, been unavoidable that with unions stronger, more numerous, and more active, some would take advantage of their legal position. Therefore the courts have recently been forced to permit some resort to the injunction, in spite of the Norris-La Guardia Act, to protect fellow workers, other unions, employers, and the public. The United States Supreme Court itself, in a notable case, sustained even a blanket injunction against picketing, in a case associated with such extreme conduct as the burning of trucks and the use of explosive bombs.³⁸ But the anti-injunction law as generally interpreted is a handicap to the curbing of patent abuses. For example, the Supreme Court has overruled the use of the injunction against picketing with placards which are untrue, even where the court had made a finding that the language used was false and damaging.³⁹ And when an action is thus unenjoinable, it becomes likewise unimpeachable as a restraint of trade.⁴⁰

REVERSAL OF CONDITIONS

If the conditions in the status of labor, economically or legally, were those existing prior to the New Deal, one

³⁸ Milk Wagon Drivers Union, Local 753 v. Meadowmoor Dairies, Inc., 312 U. S. 287 (1941).

³⁹ Cafeteria Employees Union v. Angelos, 320 U. S. 293 (1943).

⁴⁰ United States v. Hutcheson, 312 U. S. 219 (1941).

would pause long before considering the strengthening of antiunion forces by putting a discredited and misused legal technique in their hands. But the balance of power has undergone a great and permanent change. To recognize this is of the essence in dealing with present-day labor problems. Just as it was progressive in 1932 to relax the technical right to an injunction in order to take account of the weak condition of labor organizations, it is becoming recognized as progressive today to tighten up in certain particulars which take account of the present conditions.

Two courses are open. Theoretically, the easiest and best is for the United States Supreme Court to reinterpret the law, both to reduce the confusion of decisions in Federal and state courts and to review the Anti-Injunction Act in accordance with the times. Since the intent of legislatures is certain to be an issue and the Court is more inclined to look favorably on express statutes than on decisions of lower courts, a second course is the codification of certain common recent abuses as illegal and enjoined. This should perhaps be coupled with the requirement of a preliminary finding of fact by a board of labor relations, in order to protect unions in their legitimate actions. In this connection it is necessary to take into account that judicial activity in the field of labor law is likely to remain random, unspecialized, inexperienced, and uncentralized. Ultimately, then, an over-all administrative agency, with appropriate remedial powers, such as those discussed in the last section of this volume, may be the solution.

THE QUESTION OF LABOR'S SELF-RESTRAINT

When once an injunction or a cease and desist order is issued, the problem still remains of obtaining performance by the workers concerned, much as it

may seem to run counter to their immediate interests or sentiments. To accept the decisions of arbitrators, government boards, officials, and courts is an obligation of citizenship. This democratic duty must not be forgotten even when the issue is one of wages a few cents an hour less than desired or a contract less favorable than that obtainable by "direct action." When large groups of people refuse to abide by the necessary determinations made by their own government in the public interest, enforcement involves drastic and deplorable necessities which everyone is anxious to avoid.

For this and many other reasons, many feel hesitant about recommending "more laws" and about increasing the participation of government in labor relations. They earnestly desire that labor itself shall establish the requisite norms of restraint. They applaud the influence and the efforts of the more public-minded leaders of labor to minimize the kinds of abuse of picketing which have been illustrated here. Citi-

zens who wish to see labor unions grow in power for constructive service fear the kind of legislation which may be passed in an atmosphere of frayed nerves and loss of patience.

Everyone, therefore, prefers to see unions themselves attain that maturity, associated in the public mind with a high regard for public interest and public opinion, which might make added legal controls unnecessary. But today labor's power is a creature of labor law, and unions must honor concepts of public responsibility in accord with their extraordinary powers. Hence, though the Nation is reluctant to impose upon the Federal and state governments added labor authority, it is even more reluctant to rely solely on labor's self-restraint. It feels that where tangible evils have been persistent, the standards of conduct expected of labor should be defined. Picketing is an activity in which excesses beyond the legitimate uses have been in evidence. It is a field in which the experiment of government control has become almost inescapable.

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Keeping the Peace in Railroad Transportation

By ROBERT L. GLENN and G. LLOYD WILSON

IN MAY 1946 the very economy of the Nation was temporarily paralyzed by a two-day strike of railroad engineers and trainmen. Although this strike was settled promptly through powerful government intervention, it will not be easy for the public to forget how much it must rely on railroad employees to furnish railroad transportation.

Prior to World War II, many people took the railroad industry more or less for granted. All demands for freight and passenger service were met promptly, and the "iron horse" functioned without disruption of service year after year. The advent of the streamlined passenger trains in the middle thirties focused some public attention on the railroads, but by and large its attention was concentrated on the new and more glamorous industries. It was common talk that the railroads had reached their peak and were gradually yielding to other forms of transportation.

IMPORTANCE OF THE RAILROADS

This public apathy toward the railroads was abruptly shaken after our entry into the war. The railroads were suddenly called upon to transport incredible numbers of troops and passengers and record quantities of freight of all kinds. Although railroad facilities were severely taxed, all demands were met, and in 1944 freight ton miles exceeded 745 billion—more than twice as much as in 1939. During the same year passenger miles exceeded 97 billion—an increase of more than 400 per cent over 1939. An example of what the railroads were able to accomplish during the war is the movement of petroleum and petroleum products to the east coast. Normally, this commodity is de-

livered to east coast ports by tank steamers, and before the war the movement by railroads was less than 5,000 barrels a day. When tanker service was no longer available, the railroads were required to supply the deficiency. All expectations were exceeded, and movement of petroleum products by tank cars to the east coast during one period actually exceeded a million barrels per day.

The railroads also have borne a large share of the brunt of our demobilization and reconversion efforts since the war. They have been and are of vital importance to our national defense.

Virtually every section of our country is served by railroads, permitting specialization in both manufacturing and agriculture. Each area can supply the products for which it is best adapted. The railroads, because of their enormous capacity, are in a position to serve our expanding peacetime industry.

Approximately one and a half million persons are directly employed by the railroads. Hundreds of thousands more, engaged in the manufacture of railroad equipment and supplies of all kinds, are dependent upon the railroads for their livelihood. The railroads are important consumers of goods and are among the Nation's largest taxpayers. Moreover, without railroad industry it would be impossible for other forms of transportation to function effectively.

Many problems now confront the railroads. They are and will be faced with greater competition than ever before. Their roadbeds and rolling stock, because of the war load, must be rehabilitated, modernized, and in many cases completely replaced. The railroads face the postwar period with the

prospect of operating with reduced traffic and with higher operating costs. While the financial situation of many roads improved during the war, there are still some roads whose financial condition at best must be considered weak.

IMPORTANCE OF RAILROAD WORKERS

The public interest is also concerned with the men and women who operate the railroads. The fine achievements of the railroads during the war would not have been possible without effective cooperation of railroad workers. The increase in employment of these workers was relatively small, and despite continued charges of "feather-bedding," the work week of the average railroad worker was approximately 50 hours. This exceeded the national average of all industries. Production per man-hour in the railroad industry between 1939 and 1944 rose 48.1 per cent, as compared with only 3 per cent in all manufacturing and 14.2 per cent in mining.

During the war, railroad labor and its organizations adhered strictly to the no-strike pledge. While the Government had full authority to seize any railroad where service was threatened with disruption, this was done in only one instance, and then only because of refusal on the part of management to accept the recommendations of an emergency board. It is true that there was a token seizure of the railroads late in 1943 for a few days pending the settlement of the major contract negotiation, but it cannot be said with certainty that a strike would have actually occurred had there been no seizure.

Railroad labor also faces the postwar period with many problems, and, as in the case of railroad management, it is vitally concerned with the continued operation and prosperity of the industry. Fortunately, workers in the railroad industry are well organized in

old, established, responsible organizations which are fully cognizant of their responsibility to the public. The members and leaders of these organizations are also aware that it is absolutely imperative that good labor relations be maintained and that the Railway Labor Act be strictly adhered to.

THE RAILROAD INDUSTRY UNDER FEDERAL LABOR LEGISLATION

The railroad industry has had nearly fifty-eight years of experience in the handling of labor relations under Federal legislation. The first of these laws became effective in October 1888, and provided for the settlement of disputes between railroads and employees by (1) voluntary arbitration and (2) investigation. Arbitration under this act was never used, and investigation only once—during the Pullman strike of 1894—and then with little effect.

On June 1, 1898, the Erdman Act became law and provided, for the first time, for a policy of mediation for the settlement of railroad labor disputes. The United States Commission of Labor and the Chairman of the Interstate Commerce Commission were charged with the administration of the act. Investigation was dropped, but arbitration was retained. This act provided that during arbitration "the status existing immediately prior to the dispute should not be changed." Thus strikes and lockouts during arbitration were expressly prohibited. The Erdman Act forbade "yellow-dog contracts" and made it a misdemeanor for any railroad to attach a condition to employment that the employee agree not to join a labor organization. This section was held unconstitutional by the United States Supreme Court.

For about eight years no use was made of the Erdman Act, because the railroads refused to participate in mediation proceedings. However, in De-

cember 1906 mediation was successfully employed in a dispute involving the Southern Pacific Railroad, and thereafter until the act was repealed in 1913, sixty-one cases were settled by mediation.

A permanent Board of Mediation and Conciliation was established in 1913 by the Newlands Act. The Board consisted of a full-time Commissioner of Mediation and Conciliation and two additional Commissioners from among other officials of the Government, all of whom were appointed by the President. The Board was required to bring a settlement by mediation, or, if it failed, to persuade the parties to arbitrate. This law extended only to train and engine service employees, who at the time were the only highly organized groups, and provided that the Board would give opinions on request in connection with disputes involving the application of written agreements. Unlike the present awards of the National Railroad Adjustment Board, these opinions were merely advisory and were not binding on the parties. Between 1913 and 1919 the Board handled 145 cases, 70 of which were adjusted by mediation and 21 by mediation and arbitration; 19 were adjusted by the parties themselves, and the remaining cases were handled by the Railroad Administration after the railroads were taken over by the Government in 1917.

The Newlands Act proved that mediation was the most effective way of settling disputes, but it was weak in that it failed to provide any system for interpreting mediation agreements and arbitration awards.

In 1916 the train-service brotherhoods began a movement for an eight-hour day with time and a half for overtime. On failing to reach a settlement under the Newlands Act, a general strike was called. President Wilson intervened, and as a result the Adamson

Act was passed establishing a basic eight-hour day and making it unlawful to call a strike or lockout pending an investigation by Government of the feature of time and a half for overtime. While this law was held constitutional as an emergency measure by the United States Supreme Court, it did not result in a settlement of the dispute. The dispute was actually settled by the Council of National Defense in March 1917. Thus an attempt to solve a specific dispute by specific legislation was ineffective.

From 1917 to 1920 all railroads were under Federal control. Methods were employed to strengthen both mediation and arbitration. Under the Newlands Act, a Division of Labor was established and the Director General of Railroads issued a series of orders establishing policies and agencies for the settlement of disputes. The right of employees to join labor organizations without being discriminated against was re-established, and wages and working conditions were readjusted by direct negotiation after investigation. Railroad boards of adjustment were set up to make decisions on disputes arising out of the interpretation and application of contracts. Many of the measures adopted during this period were used as the basis for present railway labor legislation.

Title 3 of the Transportation Act of 1920 was enacted for the settlement of disputes as the railroads were returned to private ownership. The act provided that all disputes were to be settled, if possible, by conferences between the parties. Otherwise they were to be referred to the United States Railroad Labor Board for "hearing and decision."

Title 3 also provided that carriers might set up boards of adjustment for determining disputes arising out of contract interpretations and grievances, but did not make them mandatory. The Railroad Labor Board was a tripartite

board of nine members. Mediation was completely ignored in spite of the fact that it had been used very successfully under the Newlands Act. Both the carriers and the employees were dissatisfied with the Railroad Labor Board. In 1925 both groups formed a joint committee to assist in the forming of the Railway Labor Act of 1925. The original act still exists almost in its entirety. The amendments established the National Railroad Adjustment Board, and provided for the settlement of representation disputes by the National Mediation Board and strengthened the right of the employees to organize. In 1936 the jurisdiction of the National Mediation Board was extended to commercial airlines.

PROVISIONS OF RAILWAY LABOR ACT

The Railway Labor Act of 1926 as amended in 1934 is in reality a code of labor relations for the railroad industry. At the time of its passage, the act was advocated by both railroad labor and railroad management.

The act imposes two basic duties upon the parties with respect to adjustment of labor disputes in the railroad industry:

1. There is a bilateral obligation on the parties to make and maintain written agreements concerning rates of pay, rules, and working conditions; and

2. It is the duty of the parties to follow a definite procedural process before resorting to strikes or lockouts.

The act created the National Mediation Board to act as the administrative agency in this field. The Board consists of three members and has a field staff of twenty-one mediators. Its main functions are to mediate railroad and airline disputes on wages, rules, and working conditions and to handle representation cases by determining bargaining units and conducting elections among the employees involved.

In connection with disputes involving changes in wages, rules, or working conditions, the following procedures are prescribed by the act:

1. Either party desiring a change in a written agreement covering rates of pay, rules, and working conditions is required to give the other party at least thirty days written notice.

2. Within ten days after such notice is received, the parties are to agree on a time and place for a conference to consider the desired changes. The conference must convene within the thirty days specified in the original notice.

3. If the conference terminates without a settlement and if mediation by the Mediation Board is neither requested nor proffered, the parties must wait ten days after termination of the conference before changing the conditions out of which the dispute arose.

4. Either party may request the services of the Mediation Board or the Board may tender its services whenever it considers that an emergency exists. Where the services of the Board are used, it assigns a mediator who attempts to mediate the dispute.

5. If the mediation is unsuccessful the Board urges arbitration, and if the parties accept, each appoints one or two arbitrators who are to select the neutral arbitrator or arbitrators, thus permitting a three- or six-member arbitration board. If the parties are unable to agree upon the neutral members of the board, it is the duty of the Mediation Board to make such a selection.

6. If arbitration is declined by both parties, it is the duty of the Mediation Board to serve notice on the parties that its mediatory efforts have failed, and until thirty days after such notification no changes can be made in rates of pay, rules, or working conditions.

7. If the Mediation Board determines that the unsettled dispute threatens "substantially to interrupt inter-

state commerce to a degree such as to deprive any section of the country of essential transportation service" it may notify the President, who is authorized by the Railway Labor Act to appoint an "emergency board" to investigate and report its findings. During these proceedings and for thirty days after the emergency board sends its report to the President, no change may be made in the conditions which precipitated the dispute.

Divisions of Adjustment Board

The Railway Labor Act also established the National Railroad Adjustment Board to determine disputes and grievances arising out of the interpretation or application of the provisions of labor agreements. This Board has 36 members, 18 selected by the carriers and 18 by the railroad unions. The Board consists of four divisions, each having jurisdiction over disputes involving certain classes of railroad employees. The jurisdiction of each division is as follows: First Division—train and yard service employees; Second Division—railroad shop employees; Third Division—maintenance-of-way employees, station employees, freight handlers, porters, waiters, and other employees; Fourth Division—Employees of carriers by water and all other employees not under the jurisdiction of the other three divisions.

The First, Second, and Third Divisions have ten members each, while the Fourth Division has six members.

The procedure for the settlement of disputes or grievances involving the interpretation of agreements is as follows:

1. If possible, the parties shall attempt to settle the dispute by conference or direct negotiation.

2. If the dispute cannot be settled through joint conference, either party may invoke the services of the Adjustment Board.

3. The Appropriation Division of the Adjustment Board attempts to reach a decision by a majority vote.

4. When no decision is possible due to a deadlock, the Division attempts to agree on a referee who makes an award.

5. If it is unable to agree on a referee, the National Mediation Board makes the selection.

6. Any award made by a Division, with or without the assistance of a referee, is then transmitted to the parties with an order to the carrier to make the award effective. If the carrier fails to abide, the aggrieved party may appeal to the courts, which have authority to enforce or set aside the award. However, the courts do not have authority to review the merits of an award except where an action of enforcement is brought.

EXPERIENCE UNDER THE RAILWAY LABOR ACT

During the first twelve years of experience under the Railway Labor Act as amended in 1934, mediation has been the most successful way of disposing of disputes involving pay, rules, and working conditions. In its most recent report, the Eleventh Annual Report for the fiscal year ended June 30, 1945,¹ the National Mediation Board reported that 359 mediation cases had been referred to it during the year and that 199, or about 55 per cent, were disposed of by mediation agreements—the highest in the history of the present Board. During its first eleven years the Board handled 1,949 mediation cases, of which 1,042 were settled by mediation agreement; 26 were referred to emergency boards under Section 10 of the Railway Labor Act; and 42 were referred to panel emergency boards pursuant to Executive Order 9172. The number of cases withdrawn prior to or during me-

¹ The report for the fiscal year ended June 30, 1946 has not yet been published.

diation was 605, and the remainder were closed by the Board because of the failure of either or both parties to arbitrate. In 15 cases since 1934 the Board has been called upon to interpret the application or the meaning of its mediation agreements.

MAJOR WAGE CASES

In 1938 the carriers sought to secure a decrease in wage rates, but the effort was unsuccessful.

In the 1941 contract negotiations, the procedure under the Railway Labor Act was carried a step further. An Emergency Board was appointed, but the labor organizations were dissatisfied with the findings and recommendations of the Board and called a general strike. President Roosevelt intervened and requested the parties to appear before an Emergency Board and to argue the merits of the decision. The Board was successful finally in deciding the dispute, and the strike was called off immediately prior to the entry into World War II. As a result of the handling of this case, it is questionable whether the findings and recommendations of the emergency boards can be considered final.

In the 1943-44 wage case the White House again intervened, and a settlement was effected only after a strike vote had been taken and the railroads had been seized by the Government in what amounted to a "token seizure."

The 1945-46 wage case, as previously mentioned, did result in a two-day strike by the engineers and trainmen.

REPRESENTATION CASES

The large number of 1,427 representation disputes involving over a half-million employees were handled by the National Mediation Board during its first eleven years of existence. In 833 instances the Board conducted elections to determine the bargaining unit, and in

321 it issued certification after checking signed authorizations. In 60 cases employees' representatives were recognized without formal certification. The remainder of some 200 cases were withdrawn, dismissed, or closed without certification.

NATIONAL RAILROAD ADJUSTMENT BOARD

While the National Mediation Board at times has been handicapped by the lack of sufficient personnel, generally it has managed to keep fairly current in disposing of its cases. Unfortunately this is not true of the activities of the National Railroad Adjustment Board, and particularly the First Division of that Board, the one having jurisdiction over the disputes of train and yard service employees. The backlog of cases in the First Division continues to be one of the major problems of the railroad industry. During the fiscal year 1944-45, the number of pending cases before the First Division of the Railroad Adjustment Board was reduced from 5,138 to 4,720; and 2,233 new cases were docketed and 2,651 cases were disposed of. Of this latter number, 810 awards were issued without the assistance of referees and 411 with referees. Of the total, 1,430 cases were withdrawn.

In 1942 the backlog of cases in the First Division had reached an all-time high of 6,033. The steady reduction since that time has been due largely to an increase in the withdrawal of cases during the three years following, rather than to an increased activity on the part of the Adjustment Board itself. During this three-year period the average reduction has been 438 cases per year. Even if this rate of reduction can be continued, it will still require more than ten years to reduce the backlog to a current basis. Railroad employees and their labor organizations are to be com-

mended for their forbearance under these exasperating and trouble-fomenting conditions.

On June 11, 1945, the problem of the First Division became more complicated because of a decision of the United States Supreme Court in *Elgin, Joliet & Eastern Railroad Co. v. Burley et al.*² There, in a 5 to 4 decision, the Court held that a settlement of a claim for back pay negotiated by the labor organization and an adverse award based upon it were not binding on individual employees so as to bar suits by the individual employees to prosecute their claims, in the absence of express authorization by the employees.

On rehearing, the Supreme Court somewhat modified its previous position, holding that express authorization by an employee would be necessary unless it could be shown that authorization was implied through custom and practice.

As a result of this decision the First Division ceased to function for a time, the carrier members contending that they could not proceed on any case unless the organization produced appropriate authorizations. The First Division is again functioning, but the unions are securing written authorizations before proceeding on any claim. No doubt the backlog of cases in the First Division will show a marked increase over that of June 30, 1945.

THE STRIKE OF MAY 1946

The public has had its attention directed to the problems in railroad labor and management relations by the trainmen's strike in May 1946. Without going into the complex details of this work stoppage, it is a matter of record that the two railway brotherhood organizations involved demanded both wage increases and certain changes in the working rules. Direct negotiations

between the representatives of the brotherhoods and railway management broke down, and mediation by the National Mediation Board also proved to be unsuccessful.

Management offered to arbitrate the wage issue, and eighteen railroad labor organizations agreed to arbitrate. The brotherhoods of trainmen and engineers, however, declined to arbitrate, insisting that their demands for rules changes be disposed of simultaneously with the wage question. An emergency board was set up under the provisions of the Railway Labor Act after the two brotherhoods had taken a strike vote. The Board recommended wage increases and a few changes in rules. The trainmen and engineers announced that the terms were unacceptable and the strike would be carried out as scheduled.

At this juncture the administration intervened and publicly proposed a settlement based on a wage increase but with no rules changes. This was unacceptable to the two brotherhoods, and the strike took place after a postponement of five days. After two days of work stoppage, the strike was called off.

FEATHER-BED RULES

The so-called "feather-bed rules" have been given wide publicity in railroad wage cases, and the interjection of these working regulations has done much to obscure the underlying principles. The complaints with respect to feather-bed rules affect chiefly train and engine service employees, representing about one-fifth of the total railroad employees. These complaints arise first out of the method of payments in road service, and second from certain schedule rules, some of which have been enacted into law.

The wages of train and engine service crews in road service are paid on a dual basis, miles and hours. In some-

² 325 U.S. 711.

what oversimplified terms, these employees are paid by the mile, with an hourly guarantee coming into effect when average speeds fall below $12\frac{1}{2}$ miles per hour in freight service or 20 miles per hour in passenger service. Pay by the mile, of course, results in high earnings and short hours for crews on very fast runs. It should be noted that under the seniority system, these runs are usually held by veterans of many years' railroad service. The number of such runs is not sufficient to reduce materially the average weekly hours in train and engine service. Average hours in train and engine service are somewhat lower than in most other railroad occupational groups, but the number of hours actually worked per week was in excess of 48 throughout the war.

The laws and schedule rules which also give rise to charges of feather-bedding are too numerous and too involved for adequate or fair discussion here. They include: (1) the "full-crew" laws of various states, which require the use of trainmen in excess of the standard crew under certain circumstances; (2) train-limit laws which restrict the number of cars which can be hauled in a single train; and (3) various rules in labor contracts covering such subjects as starting time for yard crews, performance of yard work by road crews or road work by yard crews, compensation for terminal delay, for time held away from home, and many others. There is, without doubt, waste of manpower in the application of these rules, and added expense to the carriers; but the effects are not commensurate with the attention they attract.

In testifying before the House Military Affairs Committee on May 7, 1943, the late Joseph B. Eastman, at that time Director of the Office of Defense Transportation, referred to the subject

of feather-bedding. He stated that the railroads had been requested to estimate the number of men that could be saved if full-crew laws and objectionable schedule rules were eliminated. The Eastern and Western railroads estimated that they could eliminate 6,522 men, 4,284 of them because of the abrogation of full-crew laws. The Southern roads reported a possible saving of only about 100 men. The estimated possible saving was less than one-half of one per cent of the total railroad employment at the time.

APPRAISAL OF RAILWAY LABOR ACT

Former Secretary of Labor Perkins once remarked that "the Railway Labor Act embodies the fullest and most complete development of mediation, conciliation, voluntary agreement, and arbitration that is to be found in any law governing labor relations," and that the "administration of the Railway Labor Act . . . is an outstanding example of effective administration of a labor law."³

This statement represents the view of many persons who have followed the handling of labor relations in the railroad industry. There may be considerable justification for this view, because, since the inception of the Railway Labor Act, there has been only one major strike, and the great majority of all disputes have been resolved peaceably. Yet, can it fairly be said that the act in itself has been solely responsible for this lack of industrial strife in the railroad industry? On the contrary, the act merely sets forth a code of voluntary procedures and states that it is the duty of the parties to follow them. It imposes no sanctions or penalties for failure or refusal to follow these pro-

³ Hearings before the Committee on Commerce and the Committee on Education and Labor, United States Senate, 75th Cong., 3d sess., on S. 3078, Part 10, pp. 968-69.

cedures. The sole exception is the prohibition against interference of the railroads with the right of the employees to organize. Indeed, in a few cases minor authorized stoppages have occurred without resort to the provisions of the Railway Labor Act, but no penalties were or could be invoked.

The fundamental reason why labor relations, with some exceptions noted, have been generally satisfactory in the railroad industry is that both railroad management and the railroad labor organizations, in recognition of their responsibility to the public, have had the will to settle their difficulties peaceably. Without this co-operative spirit, it is the view of these writers that the Railway Labor Act or any other act would be ineffectual. If railroad labor relations have been successfully handled under the Railway Labor Act, it is chiefly because the parties have chosen and worked together to make them successful.

Like most legislation, the Railway Labor Act has its features of strength and its weaknesses. These weaknesses can be overcome only through experience and co-operation. Labor relations in the railroad industry have been improving gradually but perceptibly for the past fifty-eight years under Federal labor legislation. There are good reasons to believe that they will continue to improve. From time to time amendments to existing railway labor legislation may be necessary, and there should be no hesitation on the part of the parties or the public to urge reforms when and as they are needed.

Most of the existing weaknesses are patent. As pointed out, the First Division of the Railroad Adjustment Board is perhaps ten years behind in its work, and in most major wage negotiations many months of conferences, mediation, and hearings are required before a final settlement is reached. As a

result, the railroad workers are at a disadvantage in comparison with workers in other industries in which disputes can be promptly considered. The administration of the act by the National Mediation Board often suffers because of the lack of sufficient qualified personnel.

RECOMMENDED CHANGES

Several reforms appear to be desirable if the Railway Labor Act is to become a still more effective force in equitable working relationships. The suggestions are made primarily to stimulate thinking toward this end, and with full cognizance of the fact that no reform will be effective unless it is worked out with the wholehearted co-operation of all concerned.

It is suggested that the National Mediation Board should be reconstituted and composed of five members: two representing railroad management, two representing railroad labor, and a chairman representing the public. The National Wage Stabilization Board, as well as its predecessor the National War Labor Board, has functioned harmoniously on a tripartite basis. While it is true that the public members of these Boards almost invariably have held the balance of power, the actual participation of labor and management representatives undoubtedly helped the public members to secure more accurate information on the issues involved than would otherwise have been possible. Moreover, the parties to a dispute undoubtedly have felt that their contentions received more careful consideration because of the presence of their own representatives on the Board itself. Under the Railway Labor Act as it now exists, no one associated with a railroad or railroad labor organization is eligible for membership. As a result, it has been extremely difficult to fill vacancies with qualified public persons who understand the many complexities of

labor relations in the railroad industry.

A well-balanced mediation board might consist of a chairman with a long, outstanding record of public service; a labor member familiar with the problems involving train and engine service employees; a labor member from the ranks of nonoperating employees; an industry member who understands the problems of Class I railroads; and an industry member with a thorough knowledge of problems peculiar to railroads other than Class I railroads. It is true that Class II and Class III railroads, switching and terminal companies, and electrical railways are but a small part of railroad industry. However, these roads have many special problems and actually are involved in more cases than the Class I railroads.

It is suggested that the salaries of mediators should be substantially increased. As pointed out, the bulk of the work of the National Mediation Board is mediation, practically all of which is done by the mediators. Under present salary scales it is difficult to secure competent mediators. Because of the importance of their work, mediators should be selected with greatest possible care and should possess a thorough knowledge of railroad labor relations. The salaries should be sufficient to attract persons with the highest possible qualifications. The mediators, like the representatives of railroad employees and management, should be well-trained and well-paid specialists in their respective fields.

It is urged also that the members of the National Railway Adjustment Board should adopt procedural reforms to speed up the handling of cases of the First Division. The failure of the Adjustment

Board to adopt reasonable rules of precedent is largely responsible for the backlog that now exists in the First Division. Each case is now heard on its merits, even where the rules involved are identical with those in previous cases. The cases involved in the backlog should be analyzed, divided into appropriate groups, and then disposed of by applying precedent rules. It is believed that many common types of cases could be disposed of without full hearings.

It is also recommended that cases before the Adjustment Board be heard by one labor member and one carrier member. Their findings should then be submitted to the full Board for decision. The disposition of existing cases before the Adjustment Board can be worked out without additional legislation, and it is the duty of the parties to co-operate to this end.

These suggestions are made in the hope that they will contribute to a better understanding on the part of the public of its interest in railroad labor relations. It seems evident that railroad labor and management, despite occasional differences of opinion, will continue in their efforts to discharge their responsibilities to the public. However, the public should and must take a greater interest in these matters in order to encourage further improvement in railroad labor relations. The public should also be concerned with the effective functioning of the Railway Labor Act or future railroad legislation because, from the experience gained in the railroad industry, improved labor relations in all industries can be more quickly achieved in the broad public interest.

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Conciliation Services in Labor Relations

By EDGAR L. WARREN

MORE widespread public concern was expressed with respect to the settlement of labor-management disputes during the ten months from August 14, 1945 to June 15, 1946 than during any other period in history. This concern was based more on a number of Nation-wide strikes and threatened strikes which marked that period than on the generally troubled state of industrial relations. With these situations in the immediate background, a discussion of machinery for the settlement of labor-management disputes cannot be limited to theoretical problems, but must be based on means to meet similar situations when, and if, they arise again. A brief review of a few of the more important strikes and threatened strikes with which the Federal Government was concerned during the period immediately following V-J Day may, therefore, be of interest.

SUMMARY OF STRIKES

1. *Northwest lumber industry.*—A work stoppage involving members of the AFL continued for 65 days before a major agreement was reached. This strike in the latter part of 1945, as well as a threatened strike of the CIO union in the same industry during the spring of 1946, was settled without intervention by the Federal Government except in the form of normal conciliation conferences.

2. *Oil industry.*—A strike in the fall of 1945 continued for a period of 20 days and was settled only after government seizure. In this instance conciliation efforts had failed and the seriousness of the situation became such that seizure was required. At the same time the Secretary of Labor established a fact-finding board, and its recommenda-

tions served as the basis for settlements after one of the major companies reached an agreement in direct negotiations with the union on the disputed wage issue.

3. *Bus employees.*—A strike in the Central Western States lasted for a period of 102 working days, and was terminated only when the Secretary of Labor appointed a fact-finding board to consider the issues in dispute. The strike was called off at the time the board was appointed, but only after renewed mediation efforts. Both parties finally agreed to accept the fact-finding board's recommendations in settlement of the dispute.

4. *Flat glass industry.*—A strike which continued for thirteen weeks was finally settled by mediation efforts, but only after it had seriously threatened the production of new automobiles.

5. *General Motors.*—This much publicized strike lasted 113 days in spite of a Presidential fact-finding board which made specific recommendations for settlement. A special mediator appointed to the case by the Secretary of Labor was finally able to obtain an agreement which involved some compromise by the union from the fact-finding board's recommendations.

6. *Basic steel industry.*—In the case of this wage dispute a settlement was achieved only by means of a specific proposal by the President of the United States and a predetermination of price relief to be granted. A fact-finding board which had been appointed by the President actually did not have occasion to make a formal report on this dispute, since agreement of the parties was obtained after a strike lasting 26 days.

7. *Meat packing industry.*—A strike

over wage demands of both CIO and AFL unions lasted only 10 days. The strike was terminated, however, only after government seizure, and after the establishment of a fact-finding board by the Department of Labor accompanied by additional governmental pressure. These recommendations were, in turn, not accepted by the companies until after price relief had been obtained in accordance with the wage increase recommended by the fact-finding board.

8. *Telephone industry*.—A threatened Nation-wide strike was averted as the deadline set for strike action approached. In this instance normal conciliation efforts of the Department of Labor were successful in averting the strike.

9. *Electrical products*.—A strike of the unions in the major manufacturing companies was settled by direct negotiations between the employers and the unions. The strike in the General Motors Company electrical plants lasted only 23 working days, but in the case of the General Electric Company it continued for 59 days, and in the case of the Westinghouse Company for 138 days. The Westinghouse strike was one of the strikes of longest duration during this entire period, and in both the General Electric and Westinghouse Company cases mediation efforts were not successful. These disputes also involved demands by the employers for higher price ceilings.

10. *Farm equipment manufacturing industry*.—Strikes of various unions, while they were never carried on in the form of industry-wide strikes, did represent basic wage disputes involving all of the major producing companies. Settlements were achieved in the case of the John Deere Company, the Caterpillar Tractor Company, and the Oliver Manufacturing Company within a relatively short period, and in some instances without any work stoppage.

However, a strike involving the plants of the International Harvester Company continued for 80 days. In this instance a fact-finding board established by the Department of Labor, while its recommendations aided the settlement of the dispute, only achieved this solution after further mediation efforts. A strike of employees in two of the J. I. Case Company plants which began in December 1945 was still not terminated as of July 1, 1946. The employer in this instance refused all proposals for government conciliation. Strikes in seven Allis-Chalmers plants also continued into July in spite of conciliation efforts.

11. *Sugar refining industry*.—A threatened strike which involved both AFL and CIO employees was averted by normal conciliation procedures, although a strike in one of the major sugar refining plants lasted for 40 working days. In this situation, too, the employers required assurance that their requests for higher prices would receive prompt and sympathetic consideration.

12. *Nonferrous metals*.—Various wage strikes lasted through the late winter and spring of 1946. A fact-finding board established by the Secretary of Labor made recommendations which finally served as the basis for the settlement of many of the disputes, but conciliation efforts were also required before settlements were obtained. These disputes were not settled until price-relief commitments had been made by the Government.

13. *Railroad industry*.—A strike of the trainmen and locomotive engineers lasted only two days, but was settled only on the threat of government seizure and strong disciplinary action proposed by the President of the United States against the two unions.

14. *Bituminous coal industry*.—The strike involving the union's demand for a welfare fund as well as increased wages continued for 30 working days

and showed no indication of being terminated by conciliation efforts. When the plight of the country with respect to coal supplies appeared desperate, the union called a two-weeks truce. Actually, however, a partial work stoppage continued for an additional 7 working days until, with government seizure, the Department of Interior negotiated an agreement with the union and obtained price-relief assurance, which settled the dispute.

15. *Maritime and longshore industry.*—A threatened strike of six unions was averted by the use of normal mediation efforts, supplemented by a fact-finding board's recommendation in the case of West Coast longshoremen, and supplemented also by the issuance of orders to the employers by the War Shipping Administration which determined the employers' offers.

CHARACTERISTICS OF STRIKES

The strike situations described above show in the first place that the major cause of nationally significant labor disputes during these ten months was the question of wages. Such wage demands arose partly because of the loss in take-home pay resulting from a reduction in working hours. They resulted also from increases in the cost of living, and were substantially affected by the conviction of workers that it was economically possible for the employers to pay higher wages.

On the other hand, a significant characteristic of these labor disputes was the fact that they more or less directly involved the employers' insistence on receiving permission for higher prices as the concomitant of an agreement on wages. To a large extent they were, therefore, strikes focused on the Government's wage and price policies. Insofar as this is true, these major disputes of the past year are exceptional and do not represent a basis for judg-

ment on desirable governmental labor policy in the future.

The history of these strikes also demonstrates the increasing insistence of a number of unions on what is substantially industry-wide bargaining. Such a trend will probably continue. Any program for the development of peaceful labor-management relations, therefore, must include a reorientation of thinking and an overhauling of machinery to meet the problem of industry-wide negotiations.

In appraising this strike record, it will be appropriate to recall that during the months following V-J Day most wartime production controls were lifted, and new national policies affecting both labor and management were taking shape. Labor was uneasy over the prospect of wholesale shifts from war industries to lower-paid peacetime jobs, as well as higher living costs and a shorter work week. The fear of unemployment hung over men and women who had worked long hours in vital war industries. Management, too, faced a whole series of reconversion problems that offered no sure or easy solutions. In such an atmosphere industrial strife was almost inevitable, and the piled-up tensions, the wartime maladjustments that could not be suddenly eliminated, created an atmosphere that was anything but conciliatory.

During this same period many disputes of less national importance had their roots in the same economic and psychological atmosphere. They did not attract Nation-wide attention; a large proportion were settled by the normal processes of collective bargaining and conciliation; but the disputes which did result in work stoppages had a significant influence on the over-all production requirements of the reconversion period. From V-J Day through April 30, 1946, the United States Conciliation Service settled 12,835 disputes

involving more than six million workers. Work stoppages totaled 2,228 and there were, in addition, 3,275 threatened strikes which were resolved before work stoppages occurred.

While the record of the strike situations is staggering, the great majority of differences between management and labor were resolved by the parties themselves through collective bargaining and never reached the attention of any but those directly concerned. Thus, for example, in the period following V-J Day negotiation of contracts on almost a Nation-wide basis in the shipbuilding, rubber, and garment industries was accomplished chiefly through collective bargaining and with but little action by any but those directly concerned. In addition, threatened strikes were averted in the telephone, sugar refining, and maritime industries, as well as in important segments of the lumber industry and the farm equipment manufacturing industry, as previously described. Of all the labor-management disputes handled by the United States Conciliation Service, fewer than 17.5 per cent led to work stoppages before settlements were obtained.

MEDIATION

As Sumner H. Slichter has stated, "Collective bargaining, *if well done*, should rarely result in an interruption to production or even the reference of disputes to arbitration." He bases this statement on the fact that

each side, if it has accurate knowledge of the willingness of the other side to fight rather than accept certain terms, is ready to accept the terms which will bring balance between the employer's willingness to stand a shutdown and the union's willingness to stand a strike.¹

When and if, however, the parties are unable themselves to adjust their differ-

ences, the Government must be prepared to provide its good offices, through mediation, to assist in obtaining a settlement of the dispute.² Despite the fact that other forms of settlement of labor disputes are more dramatic and have captured the headlines more often, the process of mediation has proved successful in reaching settlements in the great majority of those cases in which agreement had not been reached by direct negotiations between the parties.

The several functions of mediation require: (1) that each issue in dispute be considered on its merits and as dispassionately as possible by both parties; (2) that the point of view of each party be thoroughly understood by the other; (3) that all possible means of settlement, including compromise proposals, suggestions based on analogous situations, and, as a last resort, the submission of the dispute to fact-finding or to voluntary arbitration, be thoroughly explored; (4) that both parties realize the implications, in terms of economic consequences, of their failure to arrive at some kind of settlement; and (5) that a settlement be achieved that will assist the parties in their future relationships with each other. Mediation involves an element of "fact-finding," in that the mediator clarifies those issues which are sometimes muddled by the parties, and supplies the parties with

² In common usage, "mediation" and "conciliation" are used interchangeably. Theoretically, "conciliation" has a more passive connotation than "mediation." Parties in dispute can conciliate their differences without the intervention of a third party. Therefore, a conciliator, as distinguished from a mediator, would confine his activities to keeping the parties in a good humor and exchanging their proposals. A mediator makes constructive suggestions for resolving the dispute. In actual practice, persons endeavoring to settle disputes act in both these capacities, and representatives of the Federal Government, who bear the title "Commissioners of Conciliation," are trained to make constructive suggestions where this appears necessary.

¹ "Strikes and the Public Interest," *Yale Review*, Dec. 1945.

data that relate the issues in their case to conditions in the industry or area which they may not already know. This means an active, not a passive, role for the mediator.

The mediator bears a weight of responsibility matched in few other professions. He must combine in one person impartiality and tolerance, a technical knowledge of the intricacies of labor relations in the field in which he is working, tact and understanding in dealing with people, as well as the personal qualities of patience, good humor, and foresight in grasping the workability of the agreements with which the parties must live.

VOLUNTARY ARBITRATION

Voluntary arbitration is also often used to settle labor disputes unresolved through collective bargaining. Such arbitration may be employed either as a means of settling disagreements arising over the interpretation and application of the provisions of an existing agreement, or in the determination of new contract terms. The use of arbitration for the first of these purposes is widespread and in recent years has been generally accepted by both labor and management. Most employers and unions now recognize that the contract can be effectively executed during its life only if there are available procedures for finally disposing of grievances which arise under the terms of the contract. Significantly, the President's Labor-Management Conference in the winter of 1945, in one of its few unanimous recommendations, urged the inclusion of machinery for final and binding solution of disputes arising under the contract as the terminal step in grievance procedures of collectively bargained agreements.

Labor and management are more reluctant to permit a third party to decide the terms of a new agreement. It

is often argued that the arbitrator may be unfair or unequipped to handle the issues. It is also urged that he is afforded dangerous discretion in resolving questions of vital interest to labor and management. This contrasts with the situation which obtains in the arbitration of grievances or the interpretation of the contract clauses, where the judgment of the arbitrator is sharply limited by the contract itself. Under certain circumstances, however, such as the avoidance of a work stoppage, where the parties feel that their position is so soundly based that no arbitrator could take exception, they will accept voluntary arbitration. In some industries, like street railways and printing, arbitration of contract terms has become an accepted procedure as a result of many years of bargaining history, and many costly strikes have been avoided by this procedure.³

FACT-FINDING BOARDS

The appointment of fact-finding boards is another procedure recently popularized for the settlement of disputes. Such boards are usually appointed by a high governmental authority (in recent months either by the President or by the Secretary of Labor) and are authorized to investigate the issues in dispute and to make public recommendations for their resolution. This procedure has been practiced for many years under the Railway Labor Act and was proposed by President Truman as a national policy in December 1945.⁴ The proposal of the

³ The constitution and by-laws of the Amalgamated Association of Street, Electric Railway and Motor Coach Employees, AFL, require that the international representative offer to arbitrate any dispute with management, and the international union will sanction a strike action only if that offer is made and rejected.

⁴ For an appraisal of this procedure, see "Fact-Finding in Labor Disputes," an address by John T. Dunlop before the Academy of

President required that the parties make information available to the boards as requested and would also have required the postponement of strike action by the union or any change in terms of employment by the employer pending the publishing of findings and recommendations of the board. These compulsory features of the proposal were objected to by both employers and unions, and legislation finally adopted by the Congress in the form of the Case bill provided for the use of such machinery only in the case of public utilities.

However, even without legislation, and using voluntary procedures entirely, fact-finding boards have been employed in a number of cases during the past year, and, as indicated earlier in this article, in a number of instances have been an important factor in the successful settlement of far-reaching disputes. Over-all experience with these boards since V-J Day indicates, however, that their effectiveness is limited to those cases in which the parties have largely agreed in advance to the use of this type of procedure. In addition, as John T. Dunlop points out, the conditions which are virtually necessary for the use of this device to yield a peaceful settlement are:

(1) an interruption of work would significantly and immediately affect the public interest; (2) the issues are reasonably limited in number and sufficiently nontechnical to be amenable to examination by a general panel; (3) the issues must involve conflicting claims as to fact, or emphasis upon different facts or principles rather than a simple out-and-out clash of principle.⁵

Political Science at its semiannual meeting, April 11, 1946; and Section VIII, "Observations," Report and Recommendations of the Fact Finding Board appointed by Order of the Secretary of Labor on August 7, 1946, in the dispute between the Milwaukee Gas Light Company and Local 18, United Gas, Coke and Chemical Workers of America (CIO).

⁵ Dunlop, *op. cit.*, p. 73.

COMPULSORY ARBITRATION

As against the use of voluntary procedures described above, many persons have argued that the effect of strikes on the public welfare is such that the Government must intervene in some more positive manner. These proposals take various forms, but they all represent some form of compulsory arbitration.

Such proposals are not new. They have been attempted in different countries on numerous occasions. Australia and New Zealand are the classical examples. Both countries have had compulsory arbitration systems. However, in Australia disputes settled through the use of government conciliation and arbitration machinery accounted for only 29.9 per cent of the total workers involved in strikes during the period 1939 through 1942. In New Zealand the percentage was only 18.2. In both countries, settlements were achieved without the use of governmental machinery, but penalties were seldom invoked.⁶

The very existence of the right to strike or lockout has the effect of precluding work stoppages by impelling disputing parties to bargain out their differences. William H. Davis, in what is probably the most incisive and enlightened statement on labor-management relations in recent years, stated:

It is, in the last analysis, the pressure of this right to strike or to lockout that keeps the parties at the conference table; that tests their courage, resourcefulness, and decision. Especially in times of emergency like the present time, those who are not involved in the dispute, the general public, are too prone to think of a strike as an unmitigated evil. . . . But the truth is . . . that the parties are the primary sufferers in a strike or lockout. They are the ones who pay the bills, and it is particu-

⁶ *Monthly Labor Review* (U. S. Dept. of Labor), April 1946, p. 611.

larly the individual wage earner who suffers most, because he is generally the one with the least resources. Because of this truth, the overhanging possibility of a strike or lockout becomes and always remains the thing that fixes the boundaries of stubbornness in the bargaining conferences. It is the ever present limit upon the aggravating effect of passion. Into every crisis it brings the still, small voice of reason.⁷

THE CASE BILL

Congress, in order to meet the demand for procedures to cope with strike situations, passed a bill—H.R. 4908, commonly referred to as the Case bill. Notwithstanding the facts that on June 11, 1946 the President vetoed this bill, entitled "An Act to Provide Additional Facilities for the Mediation of Labor Disputes, And for Other Purposes," and that on the same day the House of Representatives sustained the veto by a vote of 255 to 135, an analysis of the bill is in point.

The proposed legislation was more far-reaching with respect to the handling of labor disputes than any other legislation which has ever been considered by the Congress. Aside from the Railway Labor Act, the only Federal statute specifically pertaining to the mediation of labor disputes is the organic act establishing the Department of Labor, dated March 4, 1913, which states "that the Secretary of Labor shall have the power to act as Mediator and to appoint Commissioners of Conciliation in labor disputes whenever, in his judgment, the interests of industrial peace may require it to be done."

In his veto message on the Case bill, the President reiterated his belief that the importance of long-range policy was such that legislation should not be hurriedly considered, and therefore recommended that a joint committee be

⁷ Testimony before Senate Committee on Education and Labor, January 1946.

immediately created by the Congress to study the entire question and make recommendations for appropriate legislation. He also pointed out that this bill would have failed completely in preventing or shortening "the strikes which have so seriously damaged our economy these last few months."

There were, in all, twelve sections of the bill, of which, in addition to the Preamble and the Definitions, only four dealt directly with the policy and procedures to be established for the purpose of settling disputes between labor and management. The declared objective of the bill was "to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes," without regard to how they arise. In his veto message the President stated that he had come to the conclusion, after careful consideration, that the bill would not achieve the high and unquestionably desirable objective as set forth in Section 1.

The bill called on both employers and unions to exert every possible effort to make and maintain agreements covering terms and conditions of employment. It specified that both management and labor were to arrange promptly for conferences on the written request of the other party, and were to co-operate fully with procedures proposed by the Federal mediation board if such conferences did not result in settlement of the dispute.

FEATURES OF CASE BILL

The bill provided that the right to strike was to be postponed only if the Federal mediation board offered its mediation services before the strike started. As the President stated in his veto message, under this bill some unions might choose to strike before the mediation board had had an opportunity to determine whether it should enter into a certain case. Although the

purpose of the provision was to eliminate the so-called "quickie" strike, its effect might be to encourage unions to resort to such strikes. The President also stated that the bill might cause a great rush of premature notices for conferences or hasty filing of notices to legalize strikes, and that these premature demands for mediation might be used as an argument that the employees would be free to take strike action.

In addition to the generally expressed responsibility of employers and unions, the bill also defined certain duties of the board which to some extent would infringe on the free movement of both parties. At present the mediation machinery of the Federal Government is wholly voluntary, either party to a dispute being entitled to reject the services of a conciliator. Under the Case bill that would no longer be true. If and when the board proffered its services, the parties would be required to take certain action.

The administrative organization provided by the bill also raised questions. It would have created a new five-man Federal mediation board which, although technically within the Department of Labor, would not have been under the control of the Secretary of Labor. In his veto message the President stated that he considered this device to be inconsistent with the principles of good administration, that is, "the organization of government activity into the fewest number of government agencies consistent with efficiency." He urged that since the board would not have quasi-judicial or quasi-legislative functions but would be purely an administrative agency, the function should be concentrated in the Department of Labor. As the President stated,

In the eyes of Congress and of the public the President and the Secretary of Labor

would remain responsible for the exercise of mediation and conciliation functions in labor disputes, while, in fact, those functions would be conducted by another body not fully responsible to either.

A serious question might also be raised with regard to the merits of establishing a board on a national basis to carry on the function of mediation. The primary problem raised by the creation of such a board would be its effect on the settlement of disputes at a local level. The mere existence of a statutory board would tend to prevent the prompt settlement of many disputes. One party or the other, probably the one in the weaker economic position, would feel that it might better its position if its case were heard by the national board. The prestige and publicity would likewise attract labor disputes, and there would be a marked tendency for both unions and management to refuse the mediation efforts of local agencies. Admittedly, outstanding public persons enjoying national prestige and recognition might in certain instances be more successful in obtaining agreement of the parties than persons on the regular pay roll of the Department of Labor. In such instances, however, as Secretary of Labor Schwellenbach stated in a letter dated April 15, 1946 to Senator Murray of the Senate Committee on Education and Labor, all the advantages of a board, without its disadvantages, can be obtained by a panel of such outstanding persons who would be available for per diem appointment.

EXPANSION OF FACILITIES

If the Nation expects to avoid another period of industrial turmoil such as occurred during the months immediately following V-J Day, there must be an expansion and extension of the Government's facilities and techniques for conciliation and mediation.

This means the *développement* of a more highly trained group of Federal mediators operating under adequate supervision and at salary levels consistent with the high quality of performance required. It means that both labor and management should make greater use of these facilities. During the spring of 1946, two-thirds of the strike cases to which Commissioners were assigned had become strikes before conciliation services were requested.⁸

This difficulty will not be overcome until employers are willing to notify the United States Conciliation Service as soon as the first sign of a deadlock appears in a bargaining conference. International unions can help to remedy the situation simply by refusing to authorize a strike until the Conciliation Service has been called into a dispute and given the opportunity to attempt a peaceful settlement.

As a further aid to employer-union negotiations, the Conciliation Service is developing a panel of experts from which men can be assigned to mediate disputes of national importance, where it appears that such assignment will be helpful in obtaining agreement.

The mediation process would be aided by further experimentation with industry-wide mediation and by exploration of tripartite techniques for such mediation.

Fact-finding boards have been highly successful in particular types of disputes. Under conditions where both parties welcome their appointment in preference to that of an arbitrator, the Secretary of Labor is prepared to continue the use of fact-finding boards. The Department of Labor will continue machinery for the voluntary arbitration of difficult disputes within budgetary

limits. It may be found that in certain industries employers and unions will place more reliance in tripartite boards than in individual arbitrators, and where this is true such boards should be available for the peaceful but final settlement of issues in labor disputes.⁹ In any case, disputes should be referred to arbitration only in those instances where the parties agree to be bound by the arbitrator's or arbitration board's decision, and only after all other attempts to obtain a settlement have failed.

THE WILL TO AGREE

The basic problem, however, cannot be resolved solely by improving governmental machinery. Such machinery must be implemented by the determination of employers and unions that collective bargaining shall be made to work in large cases affecting the national economy as well as in the smaller cases. This requires employers to be in a position to carry on bargaining in as extensive units as the union organization and the similarity of labor standards make necessary. It requires that both management and labor be determined to reach agreements by hard bargaining without dictation from the Government and with a minimum recourse to strikes.

There is no question that in a number of industries the national economy can be seriously hampered or even completely paralyzed by stoppages. Although the rapidity with which the effects of such stoppages are felt, and the seriousness of the effects, vary as

⁸ Of 958 strikes settled during March, April, and May, 608 had already begun when conciliators arrived.

⁹ Since January 1946 there has been operating in the Department of Labor such a board, composed of representatives of the local cartage industry and the International Brotherhood of Teamsters, and a public official. Many disputes brought voluntarily to this board have been finally resolved without recourse to strike action.

between industries, the conclusion is the same. During the past year, and because of the peculiar circumstances referred to previously, both parties have tended to place the Government in a position where it had to dictate the terms of settlement. The parties must avoid placing the Government in that

position, and at the same time must in no degree weaken the right of the unions to strike or the right of the employer to reject specific demands. Without the maintenance of these rights there can be no true collective bargaining and no true democratic settlement of labor-management disputes.

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State Experiments in Labor Relations Legislation

By DALE YODER

THE states have long been regarded as laboratories for experimentation in legislation and government. Their experiments in the regulation of labor relations have involved trial of many of the proposed amendments, modifications, and supplements to Federal legislation on this subject. Several of the most widely discussed provisions of both the Ball-Burton-Hatch bill and the Case bill, for example, have been incorporated in various state labor laws. Such laws have, moreover, sought to overcome the alleged one-sidedness of the National Labor Relations Act. They have imposed rules of fair practice on unions and their members as well as on employers. They have opened the right to petition for elections to employers as well as employees. One of them, the Colorado law, has required incorporation of unions in an attempt to increase the responsibility of labor organizations. Others have sought to ensure democratic control in union policy formation. Several of them require "cooling-off" periods. Their experience is therefore distinctly significant in appraising the possible effectiveness of proposed changes in Federal law, regulation, and procedure.

The limits of this paper do not permit a comprehensive appraisal of all the results that have followed from the various state provisions. That, presumably, would be the function of an extensive study, similar to the one suggested by the President. Rather, in the paragraphs that follow, the nature of state experimentation is described in some detail and the major types of state provisions noted.

STATE LEGISLATION SUPPLEMENTS FEDERAL LAW

To a considerable extent, of course,

state legislation in this field represents merely an effort on the part of states to supplement the coverage of the Federal statute. The earliest of the state laws appeared two years after the passage of the Federal act. States waited to discover the attitude of the courts toward the Federal legislation. Then several of them moved to provide rules for the thousands of small firms whose activities, even under the broad interpretation of interstate commerce developed by the present Supreme Court, are not regulated by the Federal statute.

In other instances, the state laws represent attempts to supplement and improve on the Federal statute. This objective is evident in the emphasis on mediation, conciliation, and arbitration, the specification of "cooling-off" periods, the definition of unfair practices by unions, and related provisions.

Ten of the forty-eight states have enacted legislation which follows the Federal model in greater or less degree. New York and Utah took such action in 1937, Massachusetts in 1938, Pennsylvania, Michigan, Minnesota, and Wisconsin in 1939, Rhode Island in 1941, Colorado in 1943, and Connecticut in 1945. While there are wide differences among the laws (Michigan, for example, has more of a mediation law than a labor relations act), there is a wide area of similarity.

The differences in purpose and objective, and in the administrative structure created, are to some extent reflected in the titles of the acts. Thus, Connecticut, Michigan, Minnesota, New York, Utah, Pennsylvania, Rhode Island, and Massachusetts follow the Federal example in describing laws as Labor Relations Acts, while Wisconsin has its Employment Peace Act and Colorado its Labor Peace Act.

In spite of the obvious possibilities of overlapping and interference between Federal and state legislation, there has been little conflict between them. Insofar as the laws provide for conciliation, some rivalry between Federal and state services has appeared, which, on balance, appears to have been good for both levels. In some cases, as in Minnesota, there is a tendency for certain unions to favor one service as against the other. During the war, the Sixth Regional War Labor Board found one of its rulings to be in conflict with the Wisconsin act and held that the War Labor Board rule must supersede that of the state. Such conflicts have, however, been rare and relatively insignificant.

The outline and summary which follow seek to emphasize the significant variations in state labor relations legislation as distinguished from the pioneering Federal act of 1935, and the important similarities and differences in existing state laws. While the discussion deals with laws, it is not legalistic in its viewpoint. The purpose and intent of the state statutes and the general nature of the rules and procedure they establish are regarded as more important to the objective here than either the legal phraseology or the legal devices these acts employ.

PUBLIC POLICY

There are differences in the public policy these acts seek to define and enforce. The Federal statute declares the public policy to be one of encouraging collective bargaining and "protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." Most of the state laws specify or imply a similar objective,

but several of them place particular emphasis on the prevention of unfair labor practices, which have apparently seemed to legislators to be more tangible aspects of current industrial relations than the general encouragement of collective bargaining. The Wisconsin act emphasizes public interest in the promotion of equality in bargaining. The Michigan law stresses the public interest in the promotion of industrial peace through voluntary mediation. Minnesota proposes public fact-finding and recommendation for settlement as a proper function and device to be used to protect the public against work stoppages in industries of great public interest.

The position expressed or implied by several of these laws is that in return for the guarantee of freedom to bargain, public policy requires acceptance of public responsibility, due regard for the welfare and convenience of all citizens, a determined effort to settle labor-management disputes without work stoppages, willingness to use existing conciliation facilities, respect for law and order, and avoidance of violence and coercion.

ADMINISTRATIVE AGENCIES

State laws establish a variety of administrative agencies, although here, too, the Federal influence is evident. Wisconsin, Michigan, Colorado, Pennsylvania, New York, Rhode Island, Connecticut, Massachusetts, and Utah have three-member boards charged with administration of their acts. Only Minnesota has a sharply different arrangement, which makes administration the responsibility of an individual, the State Labor Conciliator. Utah, Connecticut, Rhode Island, New York, and Pennsylvania call their agencies state labor relations boards. Wisconsin has designated an Employment Relations Board, Michigan a Labor Mediation Board,

Colorado an Industrial Commission, and Massachusetts a Labor Relations Commission. In each case there are three public permanent members. In none is the tripartite principle of the National War Labor Board and its regional boards emulated except as fact-finding panels are created under the Minnesota statute.

In all cases, the boards are authorized to appoint agents, examiners, and conciliators to assist them, and several states provide for advisory committees. Only in Minnesota, however, is there provision for tripartite fact-finding commissions, and there such provision is limited to disputes involving industries of great public interest.

Authority and duties

There is a broad area of uniformity in the responsibilities and duties of the various administrative agencies under the state acts. Nine of the states follow Federal precedent in authorizing their boards, commissions, or commissioners to define appropriate bargaining units and to designate, by conducting elections or otherwise, the bargaining agent for employees. The Michigan statute, alone, does not include this provision.

Several of the state laws have undertaken to avoid the confusion surrounding petitions for elections which characterized the Federal statute for several years after its enactment. It will be recalled that until the membership of the National Labor Relations Board changed in 1939, the Board ruled that employers could not petition for an election.¹ The laws of Minnesota, Colorado, Pennsylvania, and Wisconsin specifically provide that employers may petition, thus affording a means of resolving jurisdictional disputes.

¹ Art. III, Sec. 1, Series 2, Rules and Regulations of the National Labor Relations Board, effective July 14, 1939.

Unlike the Federal act, all but four of the state administrative agencies are authorized to undertake mediation and conciliation. States which do not include this function are Connecticut, Rhode Island, Utah, and Pennsylvania. Five states—Minnesota, Massachusetts, Colorado, New York, and Wisconsin—further provide for the encouragement of voluntary arbitration, with state agencies authorized to appoint arbitrators and otherwise facilitate procedure in this direction.

In the definition of bargaining units, the certification of bargaining agents, and the prevention of unfair labor practices, the states have made no significant addition to the authority and responsibility imposed by Federal statute on the National Labor Relations Board. On the other hand, encouragement of conciliation and arbitration is, at least formally, a variation from the Federal precedent, as is, of course, the use of fact-finding commissions. Available evidence indicates no serious objection to the combination of conciliation and mediation with the older, established functions. Indeed, the reports of the Federal Board suggest that it has actually mediated extensively in the absence of any authorization to do so. The maintenance of a panel of arbitrators and the encouragement of voluntary arbitration appear to have created no special complications or problems from an administrative standpoint.

In other words, state experience does not appear to support the frequent assertion that judicial or semijudicial responsibilities involved in defining units and certifying bargaining agents should not be combined with functions of mediation and conciliation (or assistance in voluntary arbitration, which is, after all, merely one aspect of mediation and conciliation). On the other hand, there is some evidence that the functions themselves should be sharply defined in

the law, lest administrative problems result in perversions of the law's intent. In Minnesota, for example, it is said that when disputes are numerous and conciliation necessarily extensive, there is an inclination to interpret the term "industries of great public interest" broadly, justifying the appointment of fact-finding commissions, whose members thus supplement the force of conciliators. Such action is frequently criticized, particularly by labor, for it automatically imposes a thirty-day compulsory delay.

Procedure and enforcement

The procedure of the state agencies follows rather closely that which has developed under the National Labor Relations Act. Rules vary only slightly with respect to the determination of bargaining units, although there appears to be slightly greater emphasis on the importance of craft lines in some state jurisdictions. Elections to determine the bargaining agent follow, in all essentials, the pattern defined by National Labor Relations Board precedent, although some states may be less careful in detailed policing of election procedure.

All the state agencies investigate complaints alleging unfair labor practices. All have authority to issue subpoenas and require testimony from the affected parties. The boards or commissions which are authorized to prevent unfair practices issue cease and desist orders, and their actions are subject to court review in much the same manner as are those of the National Labor Relations Board. Violations of the acts are punishable as misdemeanors or by specified fines or imprisonment. The agencies have authority to order restitution of back pay to employees who have suffered losses resulting from violations of the acts.

COOLING-OFF PERIODS

One of the definite departures from the Federal act which characterizes some state laws is to be found in compulsory-delay, or cooling-off-period, provisions. The Smith-Connally War Labor Disputes Act required the National Labor Relations Board to conduct elections on the question of whether to strike, and required unions to delay strike action until thirty days after it had been approved in such an election; but obviously this wartime Federal provision could not have served as a model for state action, since most state laws preceded the War Labor Disputes Act of 1943.

Rather, the states copied this compulsory-delay provision from the Railway Labor Act and, in some cases, from the Canadian Industrial Disputes Act. The Railway Labor Act provides, after an extensive procedure involving Presidential intervention and appointment of special fact-finding boards, that when the President has created such a special board, there shall be no work stoppage until after that board has reported. Similarly, the earlier (1907) Canadian Industrial Disputes Act (as amended and re-enacted) requires the parties in a dispute to submit to investigation by a special commission and to delay any change in working conditions and any work stoppage pending the report of that commission.

State provisions for compulsory delay show considerable variation. Four states have such a provision, while six do not. Two states require such delay for single industries only: Wisconsin requires a ten-day delay in dairy production, while Colorado requires a thirty-day delay in harvesting. The other two states, Michigan and Minnesota, distinguish between industry in general and certain industries regarded as of great public interest. For in-

dustry as a whole, Michigan requires a five-day delay, while Minnesota specifies ten days between the filing of notice of an intent to strike and actual work stoppage. So far as industries of great public interest are concerned, the two states are agreed on an additional thirty-day delay.

This type of provision has given rise to widespread and acrimonious controversy. Labor organization has opposed any compulsory delay, on the ground that such delay weakens its economic powers and destroys the effectiveness of the strike; that it enables employers to prepare for the strike; that it misrepresents labor to the public in that the unions have to file a strike notice in order to secure conciliation assistance and get employers to bargain; that the "industry of great public interest" clause is misapplied and overextended. There is some evidence to support these allegations, and it is doubtful that the compulsory-delay device has been perfected to the point where it works equitably in every respect. It should be possible to improve the device, so that conciliation services are available without requiring unions to declare their intent to strike. Otherwise, union members frequently vote for a strike with no intention of following through, merely to authorize their officers to file notice. They might consider the matter more carefully if it were not regarded mainly as a formality. Differentiation between a request for conciliation and a notice of intent to strike appears to be in order.

Similarly, there is a real basis for criticism of the practice of invoking the public-interest clause in minor disputes. During the war, of course, in view of the general no-strike pledge, justification could be found for regarding all industries as of great public interest. In peacetime, however, that designation applied to building and construc-

tion, sheet metal, implement manufacturing, retail stores, and other similar industries is patently questionable. It represents a real infringement on the right to strike.

On the other hand, the compulsory-delay principle has made many converts in states where it has been tried. Among workers as well as managements and lay citizens, there is agreement that it has reduced the number of strikes, and that it has, particularly where fact-finding commissions are used in connection with the required delay, resulted in equitable adjustments without work stoppages.

UNFAIR LABOR PRACTICES OF EMPLOYERS

On the designation of specific unfair labor practices, there is wide variation among the states, although all incorporate in their lists the five practices enumerated in Section 8 of the Federal act, i.e.: interference with self-organization, domination or control of an employee organization, discrimination in hiring or employment on account of union activity, discriminatory treatment of an employee for filing charges, and refusal to bargain collectively. In addition, however, several of the states have listed specific practices (few if any of which could not conceivably be held to be included in the implications of the Federal rules) which they seek to prevent.

Six of the ten state acts have thus added to the unfair labor practices of employers, as these practices have been described in the National Labor Relations Act. Michigan, Massachusetts, Connecticut, and Utah have not done so. It may be noted that except for Connecticut, these were the earlier state laws. They followed shortly after the Federal act. Later state legislation, except for Connecticut, appears to reflect a trend to expand the enu-

meration of employer unfair labor practices.

Two additions to the Federal list stand out most clearly in the state laws. Each is specified by six states. These items are the use of spies by management and the maintenance of black lists of troublemakers among employees. In effect, these additions tend to reflect the insertion in labor relations acts of law already in effect under other titles. Furthermore, three states make it an unfair labor practice to lock out employees in violation of the terms of a current collective bargaining agreement; three limit the right of management to collect union dues under a checkoff arrangement (providing that such an arrangement must be approved by a majority of employees or authorized in writing by individual employees); two prohibit the use of "yellow-dog contracts" (those which include agreements not to be or become union members); two list refusal to accept the award of a suitable tribunal (presumably an arbitrator or panel); one describes bargaining with a minority group as an unfair labor practice; and two bar the closed shop except under conditions specified in the act.

Generally speaking, these changes or additions represent little more than a determination to "spell out" what are regarded as practices which are contrary to public policy. For the most part, the states have not added to Federal provisions anything of a distinctly different nature. In their limitation on the checkoff and the closed shop, however, they have introduced an innovation. Both of these devices obviously seek to limit unions as much as or more than employers. They represent a device designed to ensure democratic control within unions and to curb and restrict union control over employment opportunities. Specification of failure

to accept the award of a tribunal is designed to encourage voluntary arbitration and enforce its results as a means of settling disputes.

UNFAIR LABOR PRACTICES OF EMPLOYEES

The Federal act uses the term "unfair labor practices" to apply only to acts of employers, placing no restrictions on the actions of employees, although the National Labor Relations Board has, in interpreting the act, held that certain practices on the part of employees, notably illegal action by strikers, may limit the right of such employees to benefits available under the act.

Five of the states, however—Minnesota, Michigan, Colorado, Pennsylvania, and Wisconsin—have specified certain actions of employees as constituting unfair labor practices. Michigan's law describes only two unfair practices: (1) using coercion or force in requiring workers to become members of unions, and (2) using similar tactics to force workers to refrain from employment. Pennsylvania describes the sit-down strike as an unfair labor practice and specifies that the use of threats, coercion, and violence by workers shall be similarly regarded. The other three states—Colorado, Minnesota, and Wisconsin—include more extensive lists of unfair practices.

Legal terminology used in the statutes makes comparison somewhat complicated and hazardous. It may be said, however, that all of these states include the sit-down strike among the proscribed practices, although there is some variation in the description of this device. In general, it is regarded as an unlawful seizure of property. Similarly, all list the failure to give proper notice of a strike or to strike without following the procedure established in these acts as an unfair labor practice.

Use of coercion, force, or violence to secure members is similarly banned. In addition, both Colorado and Wisconsin list the refusal to accept the decision of an appropriate tribunal, picketing where a majority of the employees has not approved, the secondary boycott, and violation of a collective-bargaining agreement as unfair labor practices. Minnesota also bans secondary boycotts affecting agricultural products.

Organized labor is not pleased with these developments in the states where they have appeared. There are frequent allegations that these limitations seriously threaten the effectiveness of labor organization. On the other hand, it must be apparent that the most commonly proscribed labor activities, those involving coercion, threats, and violence, are those which have been outlawed by established criminal statutes for many years. In effect, the mention of these unfair practices does little except to make it clear that labor organization enjoys no special exemption from these rules.

There has been little objection to the listing of failure to accept the award of a tribunal or violation of the terms of a collective agreement. Insofar as labor has objected to a prescribed cooling-off period, it has similarly criticized provisions that make it an unfair labor practice to avoid requirements of these compulsory-delay features. Major criticism has been directed, however, at restrictions on picketing and use of the secondary boycott. In these, organized labor sees a serious threat to its established tactics in industrial conflict. A thoroughgoing appraisal of the effects of these provisions should be made.

CONCLUSION

This summary is limited to a description of the major provisions of state labor relations acts. It has not ap-

praised the success of these provisions in detail. To do so would involve a study beyond the present limits, but one which is fully justified in view of the probable national emphasis on labor policy in the near future. In general, the reports which are available indicate that the various state laws are, without exception, being subjected to criticism from both labor and management, each seeking to secure amendments it regards as essential.

It is apparent, however, that the Nation can, if it will, learn much from the experimentation and experience of these states. They have, as a group, tried a wide range of devices, including many variations from the Federal provisions. They have gained actual experience with several of the most frequently suggested amendments and supplements to the Federal act. They have not, it is true, enforced compulsory arbitration, even in the public utilities or industries of great public interest, although both Michigan and Minnesota have approximated this result. They have tried fact-finding, compulsory investigation, cooling-off periods, means of ensuring democratic union action with respect to strikes, picketing, and the closed shop, restrictions on the secondary boycott, requirements that unions as well as managements bargain, and penalties for refusal to carry out the terms of an agreement or the decision of a tribunal. They have experimented with employer petitions for elections to determine bargaining agents. They have tried the combination of conciliation, mediation, and quasi-judicial functions involved in defining bargaining units and certifying bargaining agents. Without exception, these experiments deal with changes that have been suggested for Federal action.

As an example, Minnesota experience with fact-finding commissions can be of distinct value. It is apparent

from that experience that both parties to a dispute in an industry of great public interest are distinctly sensitive to public opinion, that arbitrary demands disappear or are modified when the threat of publicity is applied, and that compulsory investigation where combined with a public report and recommendations amounts practically to compulsory arbitration. The device is highly effective. Combined with an adequate (at least thirty-day) compulsory delay to permit thorough study, it appears to offer a means of preventing work stoppages and at the same time ensuring equitable treatment to the parties.

The device loses its effectiveness

when applied to all industry indiscriminately. Employees in industries of minor public concern are less sensitive to public opinion. The public has little interest in such controversies. Citizens of high caliber will not devote the time necessary to ferret out all significant angles in these minor disputes.

These are conclusions from experience on a single device. They should be multiplied by careful, impartial study of all the experience in these highly valuable experimental laboratories. With due allowance for local differences, the sum total of what we have learned might well justify the President's request for a six-month study.

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Experience with Strike Legislation Abroad¹

By EDWIN E. WITTE

STRIKES are a phenomenon common to all modern industrial countries. No legislation ever enacted has been successful in preventing all strikes. It is doubtful whether any legislation has even materially reduced the number of strikes over any extended period. Many laws have seemed to have this effect for some years, only to fail miserably later on.

Every country, however, has legislation designed to minimize strikes and to bring about their early settlement. This fact clearly indicates that governments in this day and age cannot pursue a completely hands-off policy. They must necessarily "do something" when serious strikes develop which are not promptly settled. Going beyond sporadic interference in times of serious trouble, all countries have adopted quite comprehensive policies for dealing with labor disputes and have established permanent adjustment machinery.

While none of these policies have been 100 per cent successful, the experience of other countries may have some lessons for us. The greatest interest naturally is in the British, Australasian, and Canadian experience. In this article, Sweden also will be dealt with, as that country has often been pointed to

as having attained the most satisfactory labor relations to be found anywhere.

GREAT BRITAIN²

Since the 1870's, the policy of the British Government has been one of full recognition of trade unions and employers' associations (which are included within the definition of "trade unions" in British legislation), with a practically unrestricted right of combination and collective action. This has been supplemented by the establishment of extensive governmental machinery for mediation and voluntary arbitration. Every encouragement, however, has been given to unions and employers' associations to settle their own problems and to set up their own adjustment machinery.

Unlike the United States, England has never made collective bargaining a legal duty of either employers or unions, and does not prohibit discrimination for union activities or outlaw company unions. Trade agreements are not legally enforceable. Peaceful picketing is expressly legalized, as, in effect, are strikes and boycotts. Representing the most extreme departure from American concepts is the granting of complete immunity from action in tort to trade unions and their members for acts done in their behalf.

This does not mean that there are no legal restrictions on trade unions or the conduct of labor disputes. To enjoy legal immunities, trade unions must

¹ The author summarized the methods then being used in foreign countries in dealing with labor combinations and labor disputes in his *The Government in Labor Disputes* (New York, 1932), pp. 313-34. This account includes bibliographical notes listing the important literature on the subject for each country. The best summary of the wartime experience presently available is the mimeographed Research and Statistics Report No. 22 of the National War Labor Board, *Wartime Strikes and Strike Controls in Great Britain, Canada, Australia, and New Zealand*. Other recent accounts of major importance are mentioned in footnotes in this article.

² For Americans, the best account of the prewar British legislation and experience is the *Report of the United States Commission on Industrial Relations in Great Britain*, published by the United States Department of Labor in 1938. The wartime story here told has been pieced together from official reports published in the *Ministry of Labour Gazette*.

register and make annual reports, but these reports call for little information beyond the listing of officers and some statistical data. Individuals guilty of unlawful acts are held to strict accountability, and there is vigorous and impartial law enforcement during labor disputes.

There are also criminal penalties against specific acts committed in labor disputes. These include such conduct as picketing for any purpose other than "peacefully obtaining or communicating information," persistently following any person, and the breach of any contract of employment with knowledge that such action will endanger human life, expose valuable property to destruction, or deprive a municipality of electricity, gas, or water.

There is also express statutory authority for the Government to take any action that may be necessary to secure for a community the essentials of life; but this includes a proviso that even in such circumstances, strikes shall not be deemed illegal.

All this regulatory legislation has long been in effect and is accepted by the unions as necessary and desirable.

Act of 1927

It was otherwise as to the Trade Disputes and Trade Unions Act of 1927, which has recently been repealed. This much-publicized law was an outgrowth of the general strike of 1926. It added to the earlier restrictions provisions outlawing mass picketing, the "besetting of homes," and all strikes to coerce the government or which have "any object other than or in addition to the furtherance of a trade dispute within the trade or industry." These provisions led to but few prosecutions and appear to have had but little effect on the conduct of labor disputes.

Of greater importance were other provisions prohibiting civil servants

from belonging to any union not composed exclusively of civil servants, and requiring individual written authorizations from union members before any part of their union dues might be used for political purposes.

In actual operation, even these provisions proved "more of an insult than an injury," as Ernest Bevin put it in 1931. Because they felt insulted, however, the unions sought the repeal of this legislation from the day of its enactment. In 1931 they reluctantly went along with a proposal of the Labor government under which the restrictions on strikes and picketing would have been made less drastic and the "civil servants" and "contracting out" provisions would have been repealed. Industry, departing from the policy it has usually pursued in England of compromising with the unions, would have nothing to do with this amendatory bill. The measure failed when the Labor government fell a few months after its introduction. When the present Labor government came into office, the Trades Union Congress General Council asked for outright repeal. This was proposed by the Government and overwhelmingly passed by Parliament.

Basic policy and adjustment machinery

In the legislation still in effect, the Trade Disputes Act of 1905 is basic. This codified and clarified the policy of freedom of action for both unions and employers' associations, first developed in the seventies. Even while the Trade Disputes and Trade Unions Act of 1927 was effective, this basic policy was departed from in only minor respects.

Supplementing this policy of allowing freedom of action to both sides is another of making readily available to the parties governmental machinery for the adjustment of disputes, but on a strictly voluntary basis. The Conciliation Act of 1896 first provided for a

mediation service and for voluntary arbitration by arbitrators or boards selected for each dispute.

During World War I there was virtually compulsory arbitration, which was promptly abandoned when the war ended. To the prewar machinery, however, there was added a permanent arbitration board, the Industrial Court, and the Minister of Labor was authorized to appoint a Court of Inquiry to make recommendations for settlement, after investigation. Such fact-finding boards have been used but sparingly, but the Industrial Court in a quarter-century has handed down more than two thousand arbitration decisions in cases voluntarily submitted, involving both contract terms and their interpretation.

In most major industries, however, industrial councils or arbitration boards are maintained by the parties themselves, and function independently of the Government. In many unorganized industries, wage rates and other conditions of employment are determined by trade boards, set up under the Trade Board Acts of 1909 and 1918 and guided by a central Trade Board Advisory Council composed of representatives of the Trades Union Congress and the Confederation of Employers' Organizations.

Wartime controls

During World War II all these prewar agencies for adjustment were retained and carried the main burden of preventing unsettled labor disputes from becoming strikes. Until France collapsed, there was no special wartime strike legislation. Then, when England was faced with imminent invasion, on recommendation of the national labor and employer organizations, the Conditions of Employment and National Arbitration Order of July 25, 1940 came into effect.

This order prohibited strikes without notice to the Minister of Labor and thereafter if referred to some existing agency for adjustment or to the National Arbitration Tribunal, a new board created at this time with power to make a binding decision in any dispute referred to it for settlement. Under this order, practically all strikes became unlawful, and technically, at least, strikers were subject to the penalties prescribed for the violation of any defense regulation. In 1944 special and very drastic penalties were instituted for inciting strikes.

The Government, however, relied far more upon the co-operation of employers and unions to maintain industrial peace than upon penalties and threats of prosecution. It was its policy throughout the war to encourage normal collective bargaining procedures. There was no wage control, but strict price control, with large subsidies to keep down the cost of living. There was also national civilian service legislation and tight manpower control.

This wartime legislation is still in effect and the controls instituted thereunder are only slowly being relaxed. There is complete agreement, however, that restrictions on strikes and compulsory arbitration, while necessary in wartime, should not be continued in peacetime.

A satisfactory situation

There is every evidence that England is well satisfied with its basic labor relations policies. Although strikes have not been prevented, they seldom occasion much public concern. During World War I and in the years following there was a pronounced trend toward increasing strikes, culminating in the long coal strike and the general strike of 1926. Thereafter the opposite trend developed, reaching an all-time low in 1934. In 1937 the number of work

stoppages was the highest on record to that time, but the man-days lost were only a small fraction of those lost in 1926 and in many earlier years.

In the first months of World War II there was a slight decrease in the number of strikes, and after France collapsed there were no strikes at all for some months. But this situation did not long continue, and during each year of the war there occurred an increasing number of strikes. In 1944 there were 75 per cent more work stoppages than in the high year 1937. These were all unauthorized strikes, generally involving but few employees and almost invariably of short duration. Even so, man-days lost in 1944 were above those of any other year since 1932. More than half of all the lost time during the war occurred in coal mining.

Since the cessation of hostilities the number of strikes and the man-days lost have only slightly increased. By far the most important of these stoppages were the unauthorized dock strikes of October and November 1945, which were strongly opposed by the union officials and the Labor government and were settled without any concessions whatsoever.

The principal factor in the fairly satisfactory labor relations which have prevailed in England seems to lie in the long-established practice of determining all conditions of employment through collective bargaining. For more than fifty years the great majority of the British workers have been organized and the employers have never done anything which suggests that they want to get rid of the unions. The unions have had stable leadership, and both sides have approached their common problems in an atmosphere of mutual confidence and of willingness to compromise. The Government has confined its direct intervention in labor disputes to emergency situations and to industries

which have not developed their own adjustment machinery. The Government always consults the major labor and employer organizations before taking any action in labor relations.

AUSTRALIA AND NEW ZEALAND³

Very different from the peacetime British policies is the Australasian legislation. Both Australia and New Zealand have long had compulsory arbitration. During the war this basic policy was continued with relatively minor modifications. There is every reason to expect its continuance in the years immediately ahead, as it has clear majority support in both countries.

New Zealand

Compulsory arbitration in New Zealand dates from 1894. Until 1906 there were no strikes after compulsory arbitration was inaugurated. Ever since, the country has had its full share of labor troubles. In 1913 the act was quite radically changed, and it was amended several times thereafter.

As the legislation stood at the outbreak of World War II, New Zealand had a permanent Arbitration Court to which any dispute might be referred for final settlement, but only after exhaustion of efforts at mediation through ad hoc conciliation courts. Once an arbitration award had been made, it was applicable to all employers in the industry and area, and membership in the

³ The best recent accounts of compulsory arbitration in Australia are the books by Orwell de R. Foenander, *Toward Industrial Peace in Australia* (Melbourne, 1937) and *Solving Labor Problems in Australia* (Melbourne, 1941), and the article by W. Rupert Maclaurin, "Recent Experience with Compulsory Arbitration in Australia," *American Economic Review*, Vol. 28, No. 1 (March 1938), pp. 65-81. On New Zealand, two articles by E. J. Riches in the *International Labor Review* are most valuable—"The Depression and Industrial Arbitration in New Zealand," Nov. 1933, and "The Restoration of Compulsory Arbitration in New Zealand," Dec. 1936.

registered union was compulsory. If the registered union thereafter engaged in work stoppages its registration could be canceled, which carried with it loss of its right to compulsory membership. Strikes prior to arbitration awards were illegal only on public utilities and in other enumerated essential services.

When the war started, all work stoppages were promptly declared illegal and strikers were made liable to fine and imprisonment. A little later, absences to attend union meetings during work hours were penalized. In 1942 the prewar machinery for the adjustment of labor disputes was supplemented by the establishment of an Emergency Disputes Board. Unlike the Arbitration Court, this Board was a tripartite—not an exclusively public—body, and it was utilized only for important cases.

Until 1944, the strike situation remained very much the same as in the prewar years. In 1944 and 1945 there was a great increase in strikes and in man-days lost. Penalties were but seldom invoked against strikers, and generally were remitted when they promised to work. All of the wartime labor relations legislation was adopted after approval by a national Emergency Industrial Council constituted of an equal number of employer and employee representatives.

Australia

The Australian story differs only in minor respects. In Australia, compulsory arbitration began in New South Wales in 1901. Since before World War I, all states have had compulsory arbitration except Victoria and Tasmania, whose Trades Boards Acts are very similar in operation to the compulsory arbitration laws. Since 1904 there has also been a Commonwealth Court of Conciliation and Arbitration, with jurisdiction over interstate dis-

putes. As in New Zealand, by no means all strikes were illegal, and efforts at mediation always preceded reference to compulsory arbitration.

In the first year of World War II there was no additional strike legislation. In December 1940 the powers of the Commonwealth Arbitration Court were extended to intrastate disputes and also to industrial matters not involved currently in labor disputes. Provision was also made for additional conciliation commissioners and for a tripartite Reference Board subordinate to the Commonwealth Arbitration Court. In 1943 further penalties were prescribed against inciting strikes and participating in strikes. These included the cancellation of draft exemptions and the collection of fines imposed on strikers through garnishment proceedings. Special penalties and also special machinery for the adjustment of labor disputes were provided for the coal mining industry, in which occurred more than half of the strike losses of wartime.

Each and every year of the war saw an increasing number of strikes in Australia. With the exception of 1941, the loss in man-days through strikes was approximately 50 per cent greater in each of the war years than the average of the five years 1935–39. At times, strikers were dealt with rather harshly, and in a few major cases the Government employed strikebreakers and used troops to break strikes. Generally, however, the Government directed its efforts toward getting strikes settled quickly rather than toward penalizing strikers. In the handling of all labor questions the Government consulted the trade unions, and in 1942 it created an advisory Industrial Relations Council, constituted of an equal number of representatives of the unions and employers' associations, with a judge as chairman.

Following the cessation of hostilities many strikes occurred, culminating in something like a general strike throughout the Commonwealth in December 1945. There is nothing, however, to indicate that compulsory arbitration is breaking down. As administered in Australasia, compulsory arbitration emphasizes far more the prompt adjustment of disputes than restrictions on strikes; and "down under" compulsory arbitration is associated with practically 100 per cent unionism and Labor Party government.

CANADA ⁴

The Canadian policy, embodied in the Industrial Disputes Investigation Act, lies midway between the British policy of practically unrestricted freedom to strike and the Australasian policy of compulsory arbitration.

This act in its present form dates from 1925, but had its beginning as long ago as 1907. It applies only to enumerated industries except in provinces which make its terms applicable to all labor disputes, and Ontario and Quebec have never done so. In industries to which this law is applicable, strikes are illegal until thirty days after notice to the Minister of Labor, and if the Minister within this period names a Board of Inquiry, a strike is illegal until publication of its report. These boards are tripartite in composition, with a dif-

ferent board for each dispute but with the same men serving as chairman on board after board. In theory, the function of the boards is fact-finding for the enlightenment of the public; but generally their efforts are directed primarily toward helping the parties to find a basis for settlement. But few strikes occur after appointment of boards of inquiry, but there are many illegal strikes, in which no notice is given of intent to strike. Originally strongly opposed by organized labor, the legislation has won very general public support, including that of most of the Canadian unions.

Soon after the outbreak of World War II, the Industrial Disputes Investigation Act was extended to all war industries. In 1941 a full-time National War Labor Board was organized, which during the remainder of the war, with its subordinate regional boards, very largely but not entirely superseded the ad hoc boards of inquiry. The War Labor Board was constituted and functioned similarly to the War Labor Board in the United States, with jurisdiction to decide authoritatively all issues in labor disputes and to pass upon all voluntary wage increases. The one major difference was that in Canada strikes in violation of the Industrial Disputes Investigation Act, and after December 1943 all strikes for wage change, were punishable by fine and imprisonment; but there were almost no prosecutions.

In each year of the war there occurred more strikes than in any of the years of the 1930's. Man-days lost were well below those of the late thirties, but increased each year until in 1943 they exceeded those in 1937, the worst year of the two preceding decades. In 1944 and until V-J Day in 1945, there were again fewer strikes. Since V-J Day there has been a very great increase in strikes, with strike

⁴ There are but few recent secondary accounts of the experience under the Canadian Industrial Disputes Investigation Act. The most comprehensive is B. M. Selekman, *Law and Labor Relations; A Study of the Industrial Disputes Investigation Act of Canada* (Cambridge, Harvard Business Research Studies, 1937); another, H. Fabian Underhill, "Recent Canadian Labor Relations Legislation," *Journal of Political Economy*, Vol. 48, No. 3 (June 1940), 357-73. For official accounts consult the (Canadian) *Labour Gazette* and the annual reports of the Department of Labour.

losses in 1946 likely to approximate those of the record year 1919.

Unlike the situation in the United States, most of the Canadian strikes before and since the war have concerned union questions. Tight wage control seems to have been very effective in reducing strikes over wage matters, but the increasing strength of the unions has been met by growing employer resistance.

SWEDEN ⁵

In the late thirties Sweden was widely heralded as the foreign country from whose economic policies the United States could learn most. This acclaim included its industrial relations policies. Since 1939 there has been but scant mention of these policies in this country; in fact, very little is known about the Swedish experience during and since World War II.

As in Great Britain and Australasia, both the workers and the employers in Sweden are almost completely organized. The closed shop is unknown, and employers are free, as far as the law goes, to discriminate against union members; but for many years conditions of labor in all major industries have been determined in national agreements concluded between trade unions and employers' associations.

In 1938 this method of collective bargaining was supplemented by the conclusion of a basic agreement between the Swedish Employers Federation and the Swedish Confederation of Trade Unions. This basic agreement pre-

scribes the procedures to be followed in collective bargaining and in the application of trade agreements. It also sets up a joint labor-market board, with power to make binding decisions on the interpretation and the application of agreements. The basic agreement further contains provisions prohibiting strikes and other methods of direct action against third parties and in essential public services, with authority vested in the labor-market board to settle all such disputes.

Sweden has long had labor party (Social Democratic) government, but the Government has interpreted its function to be to protect the interests of the entire public. It closely follows all labor relations developments, but participates in settlements only as a mediator. Under a decision of the highest court, rendered in 1916, both unions and employers' associations are liable in damages for breaches of agreements. Since 1928 there has been a Labor Court to make binding decisions on the interpretation of trade agreements and to assess damages in cases of their breach, but it acts only when the procedures provided for in the agreement between the parties have been exhausted. Strikes over the interpretation of trade agreements are illegal, but in 1938 special restrictions on picketing were repealed.

Sweden has never been a strikeless country, but in the late thirties it had fewer strikes than at any other period for which strike statistics have been published. The legislation and the policies then effective have not been fundamentally altered. While statistics are not available, the absence of reports of major strikes suggests that these policies are still proving successful.

CONCLUSIONS

All of the five democratic countries dealt with in this article seem presently

⁵ The best account of Swedish labor relations is the *Report of the United States Commission on Industrial Relations in Sweden* (Washington, 1938). Major books by private authors published in this country are Marquis W. Childs, *This is Democracy: Collective Bargaining in Sweden* (New Haven, 1938); Paul H. Norgren, *The Swedish Collective Bargaining System* (Cambridge, 1941); and James J. Robbins, *The Government of Labor Relations in Sweden* (Chapel Hill, 1942).

to be reasonably well satisfied with their methods of dealing with labor unions and strikes. In none of them have strikes been abolished. Relative to industrial population, strike losses prior to World War II were not very different from those in the United States. During the war the record in this country was at least as good as in these foreign countries. Since the close of hostilities most of them have likewise experienced an increase in strikes, but there has been far less panicky concern about the situation than has developed in the United States.

The governmental policies pursued in these countries differ widely on paper. In actual operation, the differences are less extreme. All democratic countries try to get the parties to settle their disputes between themselves through collective bargaining. When the government intervenes, its major effort is directed toward helping the contestants to find an acceptable settlement. In wartime there were penalties against strikes in all these countries, and all but England place some restrictions on

strikes even in peacetime. But everywhere and at all times, restrictions on strikes in these countries have been more in the nature of prescribed procedures than of rigidly enforced penalties.

The explanation for the more satisfactory labor relations does not appear to lie in the legislation these countries have adopted. More probably it is to be found in the longer and wider acceptance of collective bargaining. In all these countries except Canada, there has long been close to 100 per cent union organization and a corresponding degree of employer organization. There is little fear on the part of either the employers or the public that unionism threatens the established way of life. The unions, feeling secure in their status, have developed a sense of responsibility for the general welfare, which is lacking when they are constantly fearful of being undermined. This has not meant an end of strikes, but it has removed from them much of the bitterness and the fears aroused by strikes in this country.

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Collective Bargaining in the Public Service

By STERLING D. SPERO

NEARLY six million men and women, one-ninth of the Nation's labor force, earn their livelihood in the employ of some agency of Federal, state, or local government. This about equals the number of the Nation's independent farmers. It is twelve times as many as the number who work in the coal mines, five times as many as the number who work on the railroads, and nearly ten times as many as all the doctors, dentists, lawyers, and engineers in the land.

Employer-employee relationships affecting so large a segment of the working population, of course, constitute a problem of prime importance. But the significance of public employment lies in the rapidity of its growth even more than in its present dimensions. When the civil service merit system was adopted in 1883, the Federal Government employed 130,000 persons. Today the municipal government of the City of New York employs nearly 200,000. The Federal establishment, even after drastic postwar reductions in force, still employs almost 3,000,000. While this number will doubtless decline, such reductions will be balanced in part by expansion in the state and local government services, which during the war were either frozen at prewar levels or drastically contracted.

Furthermore, governmental activity in this country, as abroad, is branching out into new fields. The programs of nationalization in England and on the European Continent have their counterparts here in expanded social services, new programs of public works, increased armaments, and government ownership of utilities and other industrial undertakings. While the total number of Federal employees has dropped 20 per

cent since V-E Day, thirty-one agencies have actually increased their personnel by a total of 172,000.

This great and growing number of government employees have problems of wages, hours, and working conditions not unlike the problems of employees in private industry. To solve these problems they have, like workers in private industry, joined labor organizations. It is almost impossible to determine the number so organized. The best available information indicates that 540,000 government workers—about 380,000 in the Federal service and about 160,000 in the state and local government services—are organized in national unions composed wholly of governmental employees.¹ This does not include a far greater number organized in the regular craft and industrial unions of the American Federation of Labor and the Congress of Industrial Organizations. According to Otto S. Beyer, one of the foremost industrial relations experts in the country, the number so organized in the Federal service during the war exceeded a million. The indications are that the state and municipal manual workers are proportionately as well organized. Over fifty national or international unions of the AFL have members in public employ.

THE SOVEREIGN EMPLOYER

The Man from Mars would doubtless think it strange if, in the face of this information, he were told that the unionization of public employees was a highly debatable issue. Yet it is a fact that the question is not only considered debatable, but is actually regarded as one of the hot issues of the

¹ U. S. Department of Labor, *Handbook of Labor Statistics*, 1944.

day. This paradox arises out of the discrepancy between the fact of organization among hundreds of thousands of government workers and the logic of the prevailing theory of the state which makes such organization unacceptable. According to the theory, the state occupies a sovereign relation to its employees. As the repository of ultimate authority in the community, it must rely on the unquestioned obedience and undivided loyalty of its employees and exercise the right of final decision in all matters affecting its relations with them. Therefore, membership of public employees in any organization likely to differ with the policy of the governmental employer, as a labor organization will at times necessarily do, is contrary to the nature of the state.

President Theodore Roosevelt, attempting to push this doctrine to its logical end, issued an Executive order forbidding Federal employees to seek to influence legislation in their own behalf "individually or through associations, save through the heads of their departments." For more than a decade, government employees were obliged to work under this order, which became known in the service as the "gag rule." Many political scientists and civic reform groups supported the regulation as a justifiable restriction conceived in the interest of economy, efficiency, a nonpartisan civil service, and the unhampered exercise of proper executive authority.²

Yet, the morale of the Federal service was never lower than at that time. Department and bureau heads and their subordinate officials, taking their cue from the White House, proceeded to interfere with any attempts of their employees to join organizations of which

the authorities disapproved. Employee organizations which pursued policies independent of the employing department were outlawed by administrative action.³ Groups attempting to demonstrate that they were more than the "company unions" by barring supervisors from membership or by affiliating with the American Federation of Labor automatically came under the ban. And the ban was enforced not by a departmental frown or formal expression of official displeasure, but by disciplinary action against leaders and active members, ranging from unsatisfactory assignments, suspensions, or postponement of vacations to dismissals. Techniques of "union busting" such as the use of informers and spying by the departmental police were employed freely.

The results were unrest, defiance, threats, and work stoppages, culminating in 1912 in the passage of the Lloyd-La Follette Act, sponsored by the American Federation of Labor, which guaranteed to Federal employees the right to organize, to affiliate with outside labor organizations which did not impose an obligation to strike against the United States, and to seek legislation affecting their interests.³

EMPLOYEE ACTIVITY AND OFFICIAL RESISTANCE

The years immediately following the passage of this legislation saw both a substantial increase in organization membership and the affiliation of most of the large organizations of Federal employees with the American Federation of Labor. Active employee lobbies were established in Washington. State and local government employees, following the example of the Federal service, set up lobbies at the state capitols and city halls or strengthened those they already had.

³ 37 Stat. 555, Aug. 24, 1912.

² Henry Jones Ford, *The Cost of Our National Government*, 1909; Report of The National Civil Service Reform League, 1912.

Lobbying and informal office contacts for matters within administrative control not only became the accepted ways of functioning for organizations of government workers, but also marked the limits of acceptance. The public authorities continued to resist attempts to use other methods, such as political action beyond lobbying, collective bargaining, picketing, or striking. Their resistance was based on the same ground as their justification of the "gag rule" and their earlier opposition to any kind of independent employee activity, namely, the paramount rights and needs of the sovereign governmental employer.

The unchallenged persistence of this doctrine made precarious even the rights recognized by the Lloyd-La Follette Act. Every situation which the public employing authorities regarded as a challenge to their sovereign powers resulted in a wave of opposition which threatened the whole structure of employee rights. After the Boston police strike, a wave of alarm spread over the country which destroyed municipal employee unions, particularly among police, firemen, and school teachers, in all parts of the land, and also led to attempts in Congress to pass legislation depriving Federal workers of their right under the Lloyd-La Follette Act to join outside labor movements. In Great Britain, following the general strike of 1926, legislation was enacted which compelled civil servants to sever connections of more than fifty years with the trade union movement.

EFFECTS OF GOVERNMENT EXPANSION

A generation ago Samuel Gompers saw in the claims of the sovereign employer such a serious threat to civil liberties that he concluded that, in order to preserve them, it was necessary to resist the expansion of government activity and thereby curtail the growth of public employment. When, at the

1920 convention of the AFL, a resolution was introduced calling for the nationalization of railroads, Gompers took the floor in opposition, declaring: "If I were a minority of one in this convention, I would want to cast my vote so that the men of labor shall not willingly enslave themselves to government authority in their industrial effort for freedom."⁴

While this was a dramatic way of calling attention to a vital issue, it is obvious in view of the unmistakable trend of the times that Mr. Gompers was supporting a futile policy. The solution of the problem requires not vain resistance to the inevitable expansion of governmental activity and its consequent increase in public employment, but analysis of the validity of the claims of the sovereign employer.

This becomes all the more necessary now, in view of the fact that government, both Federal and local, has since Gompers' day assumed numerous activities of a type previously left to private enterprise. These new enterprises require a far larger measure of managerial discretion for their efficient operation than the work of the traditional agencies. This in turn has stimulated an increasing demand on the part of government workers' unions for many of the rights which government guarantees to private employees, such as the right of collective bargaining and, in some instances, the right to strike. Also, as corollaries to the recognized rights to affiliate with outside labor organizations and to lobby, government workers have been demanding the right to engage freely in political activity.

With even traditionally recognized rights constantly subject to challenge from government sources, it is hardly surprising that the demand for additional rights should meet with opposi-

⁴ American Federation of Labor, *Proceedings*, 1920, p. 418.

tion. For years even before Calvin Coolidge became President of the United States, as a result of the role attributed to him in the Boston police strike, the dictum "one cannot strike against the government" was regarded by employing officials as a substitute for a personnel policy. Since Coolidge's demonstration of the political efficacy of the dictum, it seems to have become a sort of fixed political maxim. "No government employee can strike against his government and thus against the whole people," declared President Hoover in the 1928 campaign, opposing government liquor dispensaries. "The right to strike against the government is not and cannot be recognized," asserted Mayor La Guardia of New York when faced with the consequences of having municipalized the subways without having previously worked out a labor policy for the city's new lines. That government employees cannot strike is "a matter of common sense," President Franklin D. Roosevelt told a press conference. President Truman has taken a similar position, declaring that if government workers struck, the government would cease to exist.

GOVERNMENT WORK AND PRIVATE WORK

But is there anything about the work which government employees perform to justify such unquestioning denial of the right to strike, regarded as so basic a right for workers outside of government employ that government actually guarantees it? Time and again, even in wartime, American lawmakers have refused to deny the right to strike. The Smith-Connally Act passed at the height of World War II actually guaranteed the right. President Truman's proposals to prevent strikes on the railroads as a temporary emergency measure were turned down by the Congress even after the extreme provoca-

tion of the only general railroad strike in the country's history.

Is the work in which government employees are engaged more important to the life of society than the work of private railway workers, private utility workers, private transport workers, and private produce handlers? Government employees perform four broad types of function: housekeeping, industrial, service, and law enforcement. In what ways do these activities differ from those of other workers?

The housekeeping functions include cleaning, maintenance, correspondence, filing, and general office routine—operations incidental to the conduct of any establishment. Their importance is measured by the importance of the function to which they are incidental.

The industrial functions are the same as those in private industry. The government builds warships in its navy yards and it has them built in numerous private shipyards. The government makes arms in army arsenals such as Rock Island. It also has them made by private concerns like Winchester Arms and Bethlehem Steel. Why is it "common sense" to deny the right to strike at the arsenal and allow it at the steel company?

The service functions of government—the conduct of utilities, educational institutions, hospitals, and welfare agencies—likewise parallel or compete with those of private organizations. Until the middle of 1940 the city of New York had private and public subway systems. Strikes occurred on the private systems on several occasions. Yet when the city assumed ownership of the same lines and ran the same trains for the same passengers with the same employees, the latter were solemnly warned that their right to strike "cannot be recognized."

The only government employees whose work is not comparable with

work outside are those engaged in law enforcement. This is traditionally and uniquely a function of government. Yet, like all other governmental activities, it is dependent not alone upon the policeman and the inspectors immediately involved, but also upon the co-operation of the rest of the community. The policing of a large city at night without lighting maintained by the employees of private power companies, or at any time without the co-operation of the privately owned communications, is difficult to conceive.

The fact is that government depends on the co-operation of society as much as society depends on government. When the bus drivers and motormen of the Washington transit system struck, the work of the Federal agencies was seriously handicapped. When the railway trainmen and engineers struck in May 1946, the movement of the mails was as seriously curtailed as if employees of the Railway Mail Service itself had walked out. When three thousand privately employed tugboatmen struck early last winter, the city of New York was literally obliged to shut down all business. These strikes of private employees actually caused more public inconvenience and interfered more seriously with governmental operations than strikes of city hall clerks, Department of Agriculture employees, or even public school teachers.

Yet, as previously pointed out, American legislators continue to regard the right to strike as so important a factor in the maintenance of our freedom that they still not only refuse to interfere with it but actually insist on guaranteeing it in private employment. Is the government, then, inconsistent in continuing to deny the right to its own employees?

CONCEPT OF PUBLIC AUTHORITY

The state's denial of the right of its

employees to strike is based not on considerations of the relative importance of activities of government agencies and activities of private enterprises, but rather on the ground that government, as the custodian of final authority, i.e., the sovereign, cannot permit its servants, hired to carry on its work, to challenge its authority. The preservation of this concept of public authority is regarded as far more important than the immediate interests served by the functioning of particular agencies. Thus officials who fail to find words sufficiently strong for the denunciation of employees who interrupt the public services by a strike do not hesitate themselves to interrupt the same services by locking out employees for acts regarded as compromising their official authority.

Examples may be cited from the Boston police strike in 1919 to the Rochester trouble last spring. The Boston strike was caused by the refusal of the public authorities to accept a reasonable settlement which they regarded as compromising their authority. A Cincinnati firemen's strike in the same year was caused by a similar attitude. A few years later, the Mayor of Colorado Springs dismissed the entire fire department during a wage dispute without making any provision for the protection of the city.

Recent events in Rochester, New York, show that such attitudes on the part of employing officials are still current. Late in the spring of 1946 the City Manager of Rochester, New York, refusing to deal with the employees of the municipal Public Works Department through an AFL union, dismissed the department's 489 employees and "abolished" their jobs. The union, supported by other AFL units in the city, threw a picket line around the department's installations. The city administration, according to the *New*

York Times, "swept down . . . in a way which had not been seen in private industry since the passage of the National Labor Relations Act. Jobs were abolished, strikers fired and pickets were swept off to jail before they even reached their picket-line posts. . . ." ⁵ Arrests numbered 267. Five days later the city reversed its position, re-created the abolished jobs, and invited the workers back, but remained adamant in its refusal to deal with any union affiliated with an outside labor organization. Although some workers returned, the majority refused. Six days after this, all the local AFL unions, joined by the CIO, which had supported the city workers from the beginning, called their members out in a general sympathetic strike which tied up a large part of the city's business. The following day a settlement was reached granting all of the employees' demands save one, that the city engage in formal collective bargaining with the union. This, the city claimed, it was legally debarred from doing.

A few weeks later Portland, Maine, also suffered a general strike called in support of the employees of the local Public Works Department. The trouble here was likewise caused by the refusal of the city administration to recognize a union with outside labor affiliations.

CIVIL SERVICE STRIKES

These situations show the intimate connection within the labor movement between public and private employees. They raise in reverse the old issue of the propriety of civil servants' affiliating with outside labor movements. One of the traditional objections to such affiliation has been that it might bring government workers out in sympathetic strikes to support privately employed

workers. In the few previous city-wide general strikes—Seattle in the twenties or San Francisco in the thirties—public employees were not involved. The whole issue of general strikes seemed so remote that fears of civil service labor affiliation on the basis of such involvement seemed academic.

In fact, the question of civil service strikes appeared remote until very recently. All the organizations composed wholly of public employees had no-strike policies to which they constantly pointed with emphasis. Besides, the accepted method for improving conditions was legislative activity, and the method appeared to work with satisfaction. During the past two or three years, however, the number of strikes in the municipal services has grown greatly.

The basic cause has been the growth of organization of municipal employees by both the AFL and the CIO in small and medium-sized cities. Many of these are without merit systems, and the political machines which control the city administrations and for generations have been the sole dispensers and controllers of local government jobs have no conception of how to deal with independently organized employees. Judged by industrial standards, strikers' demands have not been unreasonable, and as a rule the strikes have not caused extensive inconvenience. Yet they have produced the inevitable reactions in the form of legislative anti-strike threats and in some cases actual antistrike legislation.

The most drastic is the law recently passed by the Virginia legislature, which provides that any employee of the Commonwealth or any of its political subdivisions who strikes forfeits his job and becomes ineligible to future public employment in the state. Congress has also for the first time gone beyond the ambiguous provisions of the Lloyd-La

⁵ Warren Moscow in *The New York Times*, May 30, 1946.

Follette Act which bars affiliation with any "outside organization imposing an obligation or duty to strike against the United States," and has attached riders to appropriation acts making it unlawful to pay the salaries of any employees who belong to organizations "asserting the right to strike against the United States."

However, the problem of the public service strike will not be solved by legislative incantation. It has been demonstrated time and again that no mere denial of the right to strike will of itself prevent strikes if workers regard their grievances sufficiently great to assume the risks. If the group involved is large and indispensable, there is not much that can be done without inviting bloodshed and civil strife. Furthermore, public authority relies on prestige quite as much as on ultimate force. The prestige of public authority was hardly promoted when the coal miners during the war continued to strike even after the government took over the mines, or when the railway workers refused to go back to work in May 1946 when the government, having taken over the roads, ordered them to do so. In these situations the provision of the Smith-Connally Act making it a criminal offense for anyone who leads or foments strikes in an industry duly taken over and operated by the government had no meaning.

GROWTH OF PUBLIC SERVICE AGREEMENTS

A public personnel policy which attempts to guarantee to the public by exhortation its paramount right to uninterrupted service leaves half of its job undone. The solution of the problem requires also recognition of the understandable desire of the employees for as large and direct a role as possible in the fixing of their working conditions. This was recognized in the report, *Em-*

ployee Organizations in the Public Service, recently issued by that old and militant civic agency, the National Civil Service League.

As the public service has grown in size and complexity, sound administrators have been more and more tending to formalize their arrangements with the spokesmen of their employees. There has thus been evolving in the public service a system of negotiation and agreement in many respects similar to collective bargaining in private industry.

The extent to which such negotiation and agreement can take place depends upon the extent of the employing agency's authority over personnel matters. If wages and hours, for example, are fixed by legislation, no arrangements between an agency and the representatives of its employees can affect these items; but this still leaves a host of matters of vital interest to the parties subject to the employing agency's discretion. Thus an agreement between the Regional War Labor Board, Region II, and the War Labor Board Employees Union, which was unaffiliated with either the CIO or the AFL, recognized the union as "the collective bargaining representative of its members for the purpose of negotiation on matters over which the Administration has authority to act." The agreement dealt with such matters as grievance machinery, promotions, transfer and dismissal, annual leave, and compensatory time.

The entrance of government into such activities as transportation, power, construction, and other types of enterprise has compelled the granting to the undertakings of a high degree of autonomy accompanied by great managerial discretion. It is hard to conceive how vast metropolitan transit systems or complex undertakings like the Tennessee Valley Authority or the Bonneville power system could possibly operate ef-

fectively with the employees constantly going to the legislature to compel the management to do one thing or forbid it to do another. In these autonomous undertakings, if personnel policy is to be democratically determined rather than autocratically dictated by a management with a free and powerful hand, some system akin to collective bargaining must be evolved. The fact is that it has been, in a large number of Federal and municipal services.

A WORKABLE SOLUTION

It is true, of course, that any agreements between administrators and employee organizations are subject to the overriding authority of the legislature to alter or supersede them. That is what the late President Roosevelt meant when he declared that collective bargaining has its "insurmountable limitations when applied to public personnel management."⁶ But it must be remembered that the expansion of governmental authority over economic life also subjects collective agreements in private industry to overriding legislation. The fact that the Railway Labor Act forbids a closed shop does not make collective bargaining on the railroads less real. Nor do the national or state labor relations acts, the sanitary codes, the factory safety laws, the Fair Labor Standards Act, or the Social Security Act, all of which impose superior legislation on the collective bargaining process, thereby vitiate that process. Negotiation and agreement in the public service, or collective bargaining, as public authorities from the President of the

United States down are increasingly referring to it, can be as real as the policy-determining organs of the government wish to make it.⁷

Whether the agreements may or may not deal with this subject or that, whether or not they are "legally binding," whether they assume the form of a "contract" or whether they are issued "unilaterally" by the agency after consultation and agreement with the employees' representatives, all become minor issues if there is present an atmosphere of mutual responsibility and understanding such as prevails in the TVA. The duty to provide this atmosphere devolves not only upon the authorities directly concerned, including the legislature, but also, as the report of the Civil Service League previously referred to points out, upon citizens generally. And the citizen, despite progress, still has his work cut out for him, particularly in the field of local government, where the practice of even elementary merit principles is still the exception.

The problem of the relations between government and its organized employees is actually a phase of a larger problem, the perennial problem of the balance between liberty and authority in a free society. Its solution depends upon a mutual restraint which recognizes that the absolute concepts of the sovereign state and the free labor movement have their practical limitations.

⁷ President Roosevelt in a speech on Labor Day, 1940, at the dedication of Chickamauga Dam of the TVA, praised "the splendid new agreement between organized labor and the TVA," saying, "collective bargaining and efficiency have proceeded hand in hand."

⁶ Letter to Mr. Luther C. Steward, August 1937.

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Has Collective Bargaining Failed?

By GEORGE W. TAYLOR

THE acceptance of free collective bargaining as the cornerstone of the national labor policy is based on the assumption that, by and large, once an "equality of bargaining power" has been established, the issues arising in labor relations can best be resolved by agreement between the parties of direct interest. The sufficiency of this policy as a safeguard of the varied interests of employees, employers, and consumers has been questioned ever since it was enunciated in the National Labor Relations Act. Significant exceptions have already been made to the basic concept that collective bargaining best preserves a balance between the conflicting interests.

The passage of minimum wage legislation to eliminate substandards of living,¹ for example, rested on a conclusion that the economic status of the lowest-paid employees could not be made dependent solely upon their bargaining power, even after the organization rights of these employees had been protected. During World War II, moreover, the Government determined that the resolution of the economic issues in labor relations could not be through unrestricted agreements between labor and management. They could disrupt economic stability and interfere with the control of inflationary forces. The wage stabilization program was developed and, over a period of more than three years, the economic issues of labor relations were closely regulated in accordance with governmental rules.

Nor has it yet been possible during the reconversion period for the Govern-

ment to relinquish these responsibilities. The program to protect the consumer against rising prices has included a continuance of limitations upon wage increases. There have even been insistent demands for additional governmental action to "protect the consumer" by specific restrictions as to the way particular economic issues can be resolved in collective bargaining. Many objections have been voiced, for example, to the establishment of union funds for various purposes through a "tax" on production or pay roll. Concern has been expressed, too, over some agreements which have been worked out by a union and a management but which result in a relatively heavy cost to the consumer because of resulting high prices or limitations of supply. The Government's role in influencing and determining the economic issues of labor relations has become a leading one. It remains so despite the announced policy of re-establishing free collective bargaining at the earliest possible date. The question arises whether or not the role which has been thrust upon Government by economic crises and maladjustments can in fact be eliminated.

PROPER FUNCTIONS OF COLLECTIVE BARGAINING

Collective bargaining does not, of course, ensure economic stability. Some observers even go so far as to maintain that collective bargaining as it has been developed under the Wagner Act contributes to economic instability. In any event, the inequities and the hardships of deflationary and inflationary forces which will alternately plague the economy can be expected to induce varied programs for governmental ac-

¹ One of the purposes of minimum wage legislation was also to eliminate "cutthroat competition," based on differences in wages, from a number of industries.

tion to resolve pressing economic questions; and the demands for government action in these areas become more insistent as there develops a growing loss of confidence in the adequacy of free collective bargaining to meet the primary economic problems of this generation. These relate to the avoidance of mass industrial unemployment and to the production and consumption of a greater volume of goods than ever before. To some, the handwriting on the wall seems very clear. All economic roads need not lead to Washington, however, if collective bargaining could be developed as an effective substitute for work stoppages and as an institution geared to the objectives of economic progress. This possibility should not be lightly dismissed by anyone who appreciates the stakes which are involved.

It has become trite, perhaps, to observe that the big challenge faced by democracies is how to attain economic security without the loss of personal and political liberties. Trite or not, the observation calls for reiteration here especially since it has an important bearing on the place of collective bargaining in the field of labor relations.

Despite the crucial functions which have been assigned to collective bargaining, there has been relatively little thought and effort given to the constructive development of the process. So much attention has been directed to the issue as to whether or not collective bargaining should be established that only meager attention has been devoted to the development of collective bargaining itself. It is becoming more and more apparent, however, that the degree to which the Government will determine economic questions is closely related to the development of a collective bargaining capable of carrying out the functions which have been assigned to it.

WHAT LEADS TO GOVERNMENT ACTION

The failures of collective bargaining to serve as an effective substitute for industrial warfare during the critical days of economic reconversion provide a pertinent illustration of how the interest of the consumer and the needs of the community can force the Government to occupy a prominent seat at the bargaining table. The greatest government pressure upon industrial relations has resulted from the Nation's demand for an uninterrupted flow of goods. Accumulated purchasing power is so vast that the pressure to get strikes terminated has tended to overshadow consumer concern about the cost of settlement. There is a growing realization, to be sure, that various forms of "feather-bedding" are an impediment to economic progress and that the relationship between wages and prices is a matter of concern to the consumer. In response to the consumer's interest in price control, a government program for economic stability has been devised; and because of the need for goods, the Government has had to take the initiative in terminating many strikes, sometimes by drastic measures. The Government finds itself, therefore, with a decisive voice in labor relations.

This is not a surprising or an unprecedented situation. The National Labor Relations Act itself was passed in part to reverse certain policies pursued by employers under so-called individual bargaining which caused economic instability. According to congressional finding, such policies contributed to deflationary wage and price movements and to the creation of mass unemployment. These were the outstanding economic problems of the 1930's. To meet them, the bargaining power of employees was increased by governmental protection of the right to organize, and collective bargaining was accepted as

the national institution by which wages, hours, and working conditions were to be established and protected. To further the same objective, minimum wages were established by law, and many other government regulations were devised to regulate most of the segments of the Nation's economic life. The Government assumed heavy responsibilities concerning the economic issues of labor relations as a protection against deflationary movements.

The question now arises about the adequacy of the Wagner Act, and of related laws, in providing protection against collective bargaining practices which contribute to an inflationary movement through the addition of unreasonable increases to the cost of goods or through limitation of the supply of goods. These were not vital questions when the Wagner Act was passed. They are of great importance, however, in these days when a strenuous battle by the Government to control inflationary forces has already become a series of strategic retreats and could become a rout. These are urgent questions, moreover, to a generation which envisions the possibility of eliminating mass unemployment among industrial workers and of achieving an unprecedented production and consumption of consumer goods.

There are observers who believe the Government should now influence the resolution of economic issues not directly but by regulating unions and defining their collective bargaining responsibilities. These steps are urged as necessary to bring about an equality of bargaining power between unions and management and to make possible a labor relationship based on agreements instead of strikes. One strong argument for the Wagner Act was that, in the absence of government regulation of employers' activities, employees had a deficient bargaining power which ag-

gravated deflationary movements. It is now suggested that, in the absence of regulation of *their* activities, the unions possess an excess of bargaining power which contributes to inflationary movements.

The question of government policy about the economic issues of labor relations involves, therefore, the entire question of the adequacy of the labor policy adopted in the Wagner Act. This calls for a comprehensive appraisal of the employer's contention that direct government intervention in economic issues can be avoided by a limitation of the power of unions. The unions oppose any such reasoning. They insist that it is actually part of an antilabor drive to eliminate collective bargaining rather than to effectuate it. They would retain all of the status and protection achieved by them under the Wagner Act, on the ground that even this act cannot provide them with sufficient bargaining power to secure the minimum economic security to which workers are equitably entitled.

CONSUMER PROTECTION

In view of the wide divergence in thinking about the question outlined above, it is timely to ask: Can collective bargaining possibly be geared to the needs of the country for peaceful settlement of labor disputes and for more goods at lower prices? Are these impossible attributes to expect of such a democratic institution? It will be recalled that labor agreements are negotiated by thousands of separate transactions conducted under widely varying economic conditions and by negotiators with different philosophies and points of view. No all-pervading principles or responsibilities are recognized as compelling in the making of an agreement. Nor can it be expected that the terms of a labor agreement will be negotiated with the needs of the consumer given

an overwhelming weight. It appears that our economic interests as consumers are dominant in every industry but our own. Negotiations are conducted, moreover, as an alternative to the exercise of powerful pressures which are available to either side to gain objectives irrespective of their economic soundness. Since a resort to industrial warfare usually involves grave consequences to both parties, self-interest is counted upon to induce a compromise of differences and the consummation of an agreement. What it takes to avoid the use of economic force, or to secure its withdrawal, is frequently a most potent force in arriving at settlements. "The lion's share to the lion" is a fact and not a theory in the disposition of many labor disputes. The development of collective bargaining as an institution for economic advancement is truly a formidable undertaking.

What is there in the system which provides protection to the consumer against unilateral dictation of terms by the management or by the union? or against an agreement between them which involves a heavy cost to the consumer? The consumer protection is presumably to derive, to some extent at least, from the "equality of bargaining power" which is mentioned in the Wagner Act and which is the subject of present controversy. Other checks and balances are available, even though they may be costly. Employees may secure high wage rates at which not to work if high prices drive consumers out of the market or to the use of substitute products. Restraints upon collective bargaining from exercise of the consumers' veto power, however, are not of much use in times like the present when goods are scarce and the demand for them so intense. It is rather anomalous that the cry for protection of the consumer against the terms of collective agreements is now raised when, we are

told, the black markets are flourishing under extensive consumer patronage.

The seller's market will not last forever, and before long buyers will be concerned not merely with getting more goods at any price, but with an increasing supply of goods at lower prices. Does the present collective bargaining policy take this matter into account? When all price controls are finally eliminated and when all restraints on wage increases are removed, will collective bargaining be one of the forces for economic progress? Or, does it inevitably bring impediments and inconveniences which will be appraised, nevertheless, as a fair and reasonable price to pay for the retention of economic policy-making in private hands? Will an overwhelming need and demand for continued government regulation of economic policy-making be induced by the search for economic security? The answers which the future will give to these questions cannot fail to have a major bearing upon the way of life in the United States during the years to come.

DIRECTION OF NATIONAL LABOR POLICY

In the meantime, there are strong reasons why the government labor policy should center upon the conscious development of collective bargaining to the fullest possible extent as an institution capable of resolving economic issues with a minimum of work stoppages and in furtherance of the goals of economic progress. Such a policy would be an attempt to effectuate the idea that the Government should directly intervene in the economic issues of labor relations to a minimum extent. The eternal vigilance upon which personal liberties depend seems now to call for a defense of collective bargaining by a positive program to develop it into an institution capable of discharging difficult social responsibilities and minimizing the scope of government policy-

making. The difficult road which is mapped out might understandably be dismissed as impractical or even idealistic. It is perhaps as idealistic as the concept of democracy.

There are some signs that lend encouragement to the proposed venture. Consider the way in which the present national labor policy has been developing. Congress did not adopt collective bargaining as the cornerstone of the national labor policy until 1935. The policy presupposed the organization of employees into unions. In 1935, however, only a small minority of industrial workers had organized. In most of the great mass production industries, permanent unions had not been established and collective bargaining with "outside" unions was virtually unknown.

The history of the American labor movement prior to 1935 centered primarily around the dispute about whether or not collective bargaining would be established. The major problems in labor relations since 1935 have primarily concerned organization for collective bargaining. Although the National Labor Relations Act provided detailed rules and regulations for carrying out this preliminary phase, collective bargaining itself was apparently conceived as a self-effectuating process. It has not been defined—and maybe it defies definition—nor has intensive consideration been given to procedures, objectives, and responsibilities which are related to the development of an institutional status for collective bargaining. A failure to expand this second phase of the national labor policy has often made it appear that the increased bargaining power provided to employees by the Wagner Act merely ensured bigger strikes between more evenly matched adversaries. If as much attention were given to the development of collective bargaining as was given by all hands to the tussle over organizing

for collective bargaining, constructive results could virtually be guaranteed.

DEVELOPMENT OF COLLECTIVE BARGAINING

A start on the constructive development of collective bargaining was made by the President's Labor-Management Conference of 1945. This was a highly significant meeting, even though it failed to arrive at any understanding about how strikes during the reconversion period could be eliminated. Despite this failure, the conferees did achieve successes in their long-run objective of building up collective bargaining as an agreement-making mechanism. The meeting stands out, moreover, as an example of a procedure which can be effectively utilized by labor and by industry as they take on the task of developing the process of collective bargaining. Agreements made in labor-management conferences, on national and local levels, have a potential which has been far from realized.

The conference of 1945, for example, arrived at a unanimous conclusion upon which procedures can be built to assist in the peaceful settlement of disputes over future agreements. It was agreed:

If direct negotiations and conciliation have not been successful, voluntary arbitration may be considered by the parties. However, before voluntary arbitration is agreed upon as a means of settling unsettled issues, the parties themselves should agree upon the precise issues, the terms of submission, and the principles or factors by which the arbitrator should be governed.

The statement might well be made stronger in later conferences. It would appear that the parties have a distinct obligation to explore every possibility by which voluntary arbitration might be used before they resort to industrial warfare. The objective of securing peaceful settlements could be furthered, moreover, by an agreement covering in

greater detail the nature of the stipulation to arbitrate and the conditions under which the use of voluntary arbitration has been of value. The development of voluntary arbitration practices and procedures by labor and industry could become a program which could provide highly constructive results.

The Government also has an obligation to facilitate the development of collective bargaining. Provision of pertinent data and mediation services to negotiators has an obvious place in the government program. In building upon the conclusion of the labor-management conference referred to above, the Government should, moreover, provide a system of boards suited for voluntary arbitration in cases where labor and management determine to settle issues by this method. The mere availability of such boards would further the cause of industrial peace; their absence has often frustrated a desire to avoid strife.

The government program to develop collective bargaining might also include fact-finding boards. Despite every effort to reconcile differences, work stoppages are often inevitable. The reasons advanced by each party as to why an agreement is impossible are significant to the general public. Accountability to the public on this score would tend to discourage the avoidance of collective bargaining responsibilities by the parties. No delving into company records and no waiting period before striking need be involved. The purpose of such fact-finding procedures would be to highlight the public interest in collective bargaining and to encourage agreements by providing for the accountability of labor and management to the public about the manner in which they have discharged their obligations.

THE VOLUNTARY ELEMENT

The emphasis placed upon voluntary-

ism in this discussion of how collective bargaining may be built up arises from a conviction that any restrictions upon the rights to strike and to lock out, which are necessary in the public interest, can soundly be provided only by agreement of the parties directly affected. Should it be concluded by the Government that restrictions must be imposed, the road will have been taken to personal sanctions and plant seizure methods which run counter to the democratic way of living and working together. Avoidance of such imposed "solutions" is worth a substantial price in inconvenience and travail. It is worth a sustained, intelligent effort to devise ways and means by which labor and management will be able to work out their own problems without government direction.

The events of recent months afford a stark preview of the way in which the national labor policy can evolve unless the constructive objectives of collective bargaining are voluntarily effectuated. When collective bargaining fails and crippling strikes occur in crucial industries, the Government has no choice but to take steps to terminate the work stoppages and to resolve the economic issues involved in them. The rights to strike and to lock out cannot be exercised in such a way as to jeopardize the transcendent right of the community to carry on its life and its work. Government intervention under the stress of dire emergency, however, has made the resolution of key labor disputes a matter of "crisis government." The disposition of the economic issues of labor relations has been undertaken on an opportunistic basis with political considerations always in the picture. It is questionable whether that approach properly serves the interests of labor, of management, or of the general public. Crisis government can also

lead, moreover, to drastic measures which engender long-time conflicts.

Nevertheless, the Government has already had the responsibility, in this reconversion period, for designating the basic economic conditions of labor relations. Wage patterns have been determined by the Government for wide application without regard to the varying incidence upon high-labor-cost and low-labor-cost companies or industries. In some instances, the procedures of wage determination have approximated compulsory arbitration. Avoidance of these results is a part of the stake in a program for developing collective bargaining as an effective substitute for work stoppages.

IS GOVERNMENT CONTROL INEVITABLE?

This discussion focuses attention upon the increasing tendency for the Government to resolve the major economic issues of labor relations. Is this an irresistible trend? During World War II and in the reconversion days, the need for controlling inflation and an attempt

to check anticipated deflationary forces were the motivating factors in government intervention. Then, critical strikes kept the Government at the collective bargaining table with a decisive control over their settlement. Pressures for government action to facilitate economic progress and to provide economic security will undoubtedly persist. At a time when the trend is strongly in the direction of a centralized control of the economic issues of labor relations, the conscious development of collective bargaining could be undertaken with the object of providing a major bulwark in the defense of private control of these matters. Nor is success in this direction a foregone conclusion, even though great efforts are expended by labor, management, and the Government to develop collective bargaining as a more constructive institution. It would seem, however, that no one of these parties can afford to give up collective bargaining by default or supinely resign itself to the inevitability of government control of the economics of industry.

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Public-Mindedness Through Co-operation

By ORDWAY TEAD

WHO is the public? What is the public interest? Is such a public interest discoverable in general terms, or in relation to specific issues in the world of labor relations?

These are questions which press for an answer at a time when functional group organization gains in coherence, articulateness, and social power. Moreover, when efforts to adjust group interests by discussion break down and the consequences are adverse to the good or the convenience of the generality of people, the demand naturally arises to have public interest defined and invoked in ways that penalize those who act counter to it.

The problem in economic and labor-group issues is rendered the more perplexing because the issues which occasion conflicts disturbing public convenience are usually not those which, as someone has said, arise "under the rules but over the rules." In any specific labor controversy, for example, it may be true that what is fundamentally at stake is a shift in the balance of power among the groups involved. And about such issues, rules, precedents, and absolute guides to decisions do not exist. It is rather the temper of the people and the social sentiment of the times that lead to a general acceptance or nonacceptance of such an effort at alterations in relative group power. At such times and with respect to such specific issues, such shifts in group influence may become embodied in new legislation which sets an acceptable pattern that is subsequently used as the rule under which the game is played. Workmen's compensation was such a new pattern; so too was unemployment insurance; so also is the Wagner Act.

A second qualifying factor in identi-

fying and invoking a public interest is the question, at once theoretical and practical, as to whether a public interest is that which results when an agreement has been temporarily reached among group interests which have been in conflict. If the pursuit—hopefully as enlightened as possible—of self-interest by the various economic and industrial groups does in fact result in what is best for society, the problem then is only to get the groups to agree. But if and when a public interest runs counter to, or requires limitations upon, the actions of special interests, the problem is the more serious one of identifying the public interest by having a set of values and standards which are recognizably public.

A PUBLIC INTEREST EXISTS

There is a public interest, a concern for the welfare of the community as a whole, which on occasion may be different from the obvious and immediate self-interests of one or another of its constituent groups; and different also from that achieved under agreements between groups with some interests in conflict. A case in point might be a trade association and a union agreeing on a wage scale that brought with it an unwarrantedly high price for the particular product.

The theoretical definition of public interest is possible in general terms of protection against hazards to health and safety, continuity of universally necessary services like water and light, and opportunity of individuals to be more or less free and equal, autonomous persons. A basic American document talks about our common rights to life, liberty, and the pursuit of happiness. Less has

thus far been said and agreed upon as to mutual duties and responsibilities.

Realistically, of course, on many issues of wages, prices, profits, and the like, there is a larger public affected than the obvious immediate parties including the direct consumers. The young, the old, the sick and dependent, the individually employed—these too are parts of our population whose total standard of life is concerned with the productivity of our economy. And in such crises, for example, as a railroad or coal strike, the interests of the employers and the workers in many other industries would also seem to be against any serious interruption of operations.

GOVERNMENT BODIES AND THE PUBLIC INTEREST

We have assumed—perhaps too uncritically—that the elected representative bodies in any hierarchy of geographic subdivisions are those charged in the first instance to clarify and set down what the public interest requires in a vast variety of problems. City councils, state legislatures, and the Congress affirm and enforce standards in wide and increasing areas of public action. The police power and general welfare clauses are invoked, and a public interest becomes a fact. As a fact, it is determined by a knowledge of specific conditions and scientific findings plus a considerable majority consensus of view that the findings be made the basis of public policy.

And in areas of public distress, actual or potential, where this public definition of public interest does not occur, it is because (1) there is no wide agreement as yet upon a public end to be attained, (2) there is no full scientific knowledge available for use by legislature or regulative body, or (3) there is prevention of public action due to the influencing of lawmakers by interested special groups.

There is no denying that in such matters as the minimizing of strikes in the public interest, legislative bodies have the power to act; and in relation to crises that are deemed by a designated public authority as a public emergency against the general welfare, to require the maximum postponement and to provide for full mediation and arbitration will undoubtedly be accepted, soon or late, as wise public policy.

But inasmuch as other papers in this issue will treat more specifically of legislation as an expression of the public interest, I am enabled here to stress another and different aspect of that interest—one in need of fuller public understanding and acceptance in the conduct of all employer-employee relations. It is, moreover, a phase which if more consistently and intelligently pursued would go far to reduce the issues which give rise to acts against the public interest.

ELEMENTS OF PUBLIC INTEREST

Let us start by asking what it is the public would like to obtain as the public good eventuating out of industrial operations—that is, out of the joint labors of managements and workers. Several aims should be readily agreed upon in informed circles. The public would like to see: (1) the continuing (and continuous) operation of any company that proves able honestly to survive; (2) competitive costs which assure prices that attract a high volume of business; (3) a smooth internal functioning of the organization, reflecting friendly and amicable relations of supervisors and those supervised; (4) conditions which give every possible opportunity for personal fulfillment and group satisfaction at work, including factors of promotion, seniority, and retirement; (5) provision of terms of employment on as high a level as the com-

petitive condition of the industry permits; (6) and, of course, as both the basis of and the outcome from the entire operation, a sufficient profit to retain and attract such volume of capital as is required in the exercise of prudent managerial judgment.

To enumerate these aims as in the public interest is to remind ourselves that, given good will and good judgment, these are also common interests of managers and workers. To assure that such common aims are (1) recognized by all as common and (2) worked for as common, thus becomes a further and a basic public interest.

VOLUNTARYISM ESSENTIAL

How is such an interest to be implemented? Direct public action will have its part in legislative ways already mentioned. But such action will primarily affect the crisis situations and not the normal, continuing operations. My position here will be that the *voluntary* pattern of joint management-labor working arrangements will for the immediate present be the necessary line to take and to foster. The time may come when such a program as this voluntary effort implies will secure sufficient acceptance and sufficient success in operation to be legally required of a recalcitrant minority of employers or workers. But essentially the success of labor relations (whether the employer is public or private) is not a legislative matter or determined by legal factors.

There are exceptions to this when employers and unions, for example, unite to conspire in restraint of trade or for selfish monopolistic purposes; and in such cases the law can be invoked. Yet despite these exceptions, the success of labor relations is always at bottom a matter of good will and good judgment animating those directly involved in the productive activity.

THE PROCESS OF REACHING AGREEMENT

How out of disparate group interests do we realize agreements that are fruitful and that do not run counter to a public interest?

Happily, we are not without guides to a constructive answer. The dynamics of effective group action are more clearly identified experimentally today than ever before. We can state the conditions by which positive results are known to be obtained. We have to make these explicit and then to show their application in labor relations.

In political life, out of disparities of (for example) geographic interests in a given area, the familiar process of resolving those interests is the following: (1) We identify the constituency; (2) we identify the special major group interests; (3) we assure the selection of representatives of those interests; (4) we supply explicit opportunity for regular meetings of the representatives; (5) we put *all* relevant facts at their disposal; (6) we seek to assure leadership that is driving toward agreement; (7) we work for decisions which include the essential elements of what different groups want; (8) we reach agreements; (9) we try them out experimentally; (10) we accept or revise them as found practically necessary.

Here is a process which has stood the test of repeated trials. It is the process by which intergroup agreement is brought out of disagreement—operating unity out of diversity. Where these conditions are not satisfied, no continuing common action occurs. And the practical and fruitful decisions, when reached, all satisfy certain requirements and have certain common characteristics. They are *inclusive* of the important claims of the interested groups; that means that they become *appealing* to them severally; that means, too, that

they are *integrative* of diverse desires. Note, also, that they are *co-operatively* sought, and they are *experimentally* held.¹ These requirements can be consciously sought by all conferees; they can be taught and learned; they are integral to the methodology of sincere negotiative effort; they are applicable at all levels of action and upon diverse problems.

Also, the entire process is furthered because in the political realities of our country there exists among these geographic groups a sense of equal status, equal responsibility, and equal power.² Finally, there is common recognition that at bottom there is more to be gained by agreement than by secession or by appeal to violence. That presumably was the costly lesson of our Civil War. In short, the will to agreement is an indispensable factor.

The sum of this analysis of inter-group deliberation and agreement is that we know the several conditions and characteristics of its success. And the conclusion is valid that where the representative deliberative process satisfies these conditions, an outcome is reached which is in the public interest. Hence, to generalize and extend the process is a public responsibility of the first order of importance.

APPLICATION TO LABOR RELATIONS

What is the specific application of all this to the field of labor relations? The literal carrying over of this process with its general pattern and prescriptions is the necessary condition without

which we cannot get groups to focus responsible attention on those common aims in our economic life which are at once the public interest and in the common interest of management and men.

If, now, it be said that this is precisely what collective bargaining already is and does in the world of labor relations—that it *does* supply the pattern by which agreement is brought out of disagreement—I agree that we have a beginning here. But to make collective agreements truly serve the purposes of the different groups involved, including the public, we have to refine our analysis of the operating problems in order to discover the weaknesses and the inadequacies of typical contractual relations. For these have to be brought, consciously and affirmatively, beyond the status of contract to one of collaborative co-operation.

GETTING DOWN TO GRASS ROOTS

Basically, we need a fresh look at the several levels of co-operative effort—at what have formerly been, as Slichter says, levels of antagonistic co-operation. And we have to ask ourselves what different joint problems are faced at the level of the department, of the factory or store as a whole, and of the industry in its regional and national scope. And we have to ask, How do individual workers actually become involved in a concern for what the collective bargain actually entails for them individually beyond hours and take-home pay?

The rank and file, it is my contention, have to be acquainted at first hand with the individualized impact and implications of the agreement under which they work. If they are to come to see the possible extent of common aims and purposes, they must have the factual, firsthand experience of them as common. The processes of bargaining have not been sufficiently domesticated down

¹ See National Society of College Teachers of Education, "The Discipline of Practical Judgment in a Democratic Society," Yearbook No. 28, 1942 (Chicago: University of Chicago Press, 1943), p. 183.

² See Harold D. Lasswell and Myres S. McDougal, "Legal Education and Public Policy: Professional Training in the Public Interest," *Yale Law Journal*, March 1943, p. 212.

into the department and to the job where the men actually have their closest relation to the success or failure of joint dealing. The men on the job both deserve and require for their *responsible* relation to production a more intimate participation in the decisions about production.

I do not mean here, of course, decisions about what to produce. I refer to the vital, critical problems of how much shall be produced (production quotas), what standards of quality and total performance shall obtain, how improvements and economies in method, materials, and machines can be discovered, applied, and rewarded, how job classifications and wage determinations shall be applied, and how all internal department maladjustments over supervision, discipline, or anything else can be promptly and amicably ironed out. The experience, for example, of the better-guided joint labor-management production committees in the war plants supplies a body of helpful evidence of the practical truth of my contention that the place to start the worker into informed interest in his job and regarding all that flows out from it is in organized joint conferring about all such problems as those just listed.

If the worker is to see some organic connection between quantity and quality of work and his own satisfaction out of it, if the relation of low cost to productivity is to have more than academic meaning, if the worker is to come to feel himself in some real sense a partner in the enterprise with a stake in the total outcome, the point at which all this gets its realistic start is in connection with his job and his department's performance. For he it is, with his benchmates and their supervisors, that knows the grass roots of the job as no one else does. He can contribute here with meaning and with constructive helpfulness. And he can learn out of

the immediacy of his own guided experiences all that the books refer to as the "economics of business," by which is usually meant the truth that companies cannot distribute more value than has been produced.

If the departmental union agent or shop steward has been trained to carry his responsibilities intelligently, and if the foreman is trained to carry his directive and leadership functions wisely, a grass-roots control over the elements of high productivity has been provided in joint departmental conferences on the basis of which can be reared the collective dealing at the over-all company level which can be more informed, more responsible, and more co-operative.

DEALING WITH THE OVER-ALL COMPANY

This second level of joint dealing—that of the union or unions with the over-all company—will in some industries be the only other level for formal collaboration. In this case the resolution of all difficulties not possible of settlement at and around the jobs will take place in such collective negotiations. Joint dealings here will therefore usually have to include not only the shaping of the actual collective contract, but a variety of other matters of industrial relations policy which may or may not be embodied in the contract.

However, matters of job security, promotions, seniority, retirement and sickness provisions, vacations, methods of replacing men by new machines, and other items will increasingly be found subject to some degree of joint determination. The real questions which arise on these and other points which may seem to be less directly matters of labor policy surely do not rest upon the exercise of what has come to be named "management prerogatives." This is another legalism which can readily be

injected when good will and good judgment are absent or scarce.

A problem that bothers workers singly or collectively is not resolved by management's withdrawing into the shell of its "prerogatives." Open, head-on, shared confronting of identifiable points of difference is the only sensible alternative in the interest of smooth operation and in the public interest. In assuring the success of collective bargaining beyond the stage of making "points" in a contract, the way to get together is to confer, and the way to confer is to come together and stay together; and the way to assure that group representatives stay together is to have them trained to seek out formulas for concurrence that are inclusive, appealing, integrative, co-operative, and experimental.

THE INDUSTRY-WIDE LEVEL

Finally, there are the industries in which the collective dealings cover districts, regions, or the country as a whole. The desirability of this is not here in discussion. It is at this broadest level that most of the issues affecting the prosperity of the industry are likely to be raised; and all the intricate questions of attaining a genuine competitive equality on labor factors among competing companies may well give rise to the injection of issues heretofore handled solely by management. If unions are to become more "responsible" in the business sense of that word, if concern for the welfare of the industry as "their" industry is to become a positive reality, if "a stake in the outcome" of the conduct of an industry is to be more than a cant phrase—then, if the subjects brought forward for joint discussion seem to range rather widely afield, it needs to be remembered that understanding is based on knowledge and that relevant knowledge shared is

the first step away from "antagonistic co-operation."

In short, every level of joint action, from the individual job to the industry-wide agreement, has its special factors of knowledge and relevant data which have to be shared if agreements are to be shared. And the need that agreements *be* shared is that this is the psychological condition of having the manual working group sufficiently involved in understanding to be able to become involved also in willing and productive effort. The whole possibility of retaining and improving voluntaristic as against prescribed methods in labor relations depends upon widespread appreciation of this truth.

THE PRIMARY PUBLIC INTEREST

If it be said that I have largely discussed how to make collective bargaining work more smoothly rather than how the public interest becomes ascendant, I can only repeat that for collective bargaining to work as the beginning of responsible constitutional government in industry *is* the primary public interest. By law we can and probably shall put drastic checks on interruptions of service where the health, safety, or convenience of the vast majority is clearly involved. But these are limited situations, not too frequently confronted; whereas every management-worker relationship, in thousands of organizations and in continuous contacts, is making or marring the success of harmonious productive effort.

To see how practical agreements are reached and kept, to know the processes by which democratic judgments and choices are arrived at, to train individuals for responsible group and inter-group behavior—all this is the larger and the basic public responsibility. It is vital to realize that it is a responsibility which in particulars cannot be legislated about, because such realiza-

tion will lead to centering attention on the up-and-down-the-line educational job to be done.

There is no quick and easy way to industrial peace. The issues underlying the present tensions are too profound and too complicated to promise that. Expectations must be more modest. And we have the right to our hope that if we face each specific instance of conflict with the use of the process and

pattern of good intergroup relatedness, peaceful methods will gradually preponderate over more warlike ones.

And we further have the right to understand and to be satisfied that in this approach to the improvement of labor relations we are cherishing democratic ends and not sacrificing the rightful freedom of individuals to a "public will" that would be too totalitarian for comfort.

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The Dilemma of Labor Relations Control

By WILLIAM L. BATT

IT IS a fairly new experience in this country that there should be concern on the part of the public as to the relations between labor and management, but in other parts of the world, England in particular, it is an old one. Never for long in any nice balance, that problem has been one of steadily growing importance through the years; but the fact that it has always worked itself out in some way in the normal course of events has tended to keep its fundamental seriousness from being recognized by us.

In order to evaluate what is happening today, it is essential to recognize the traditional dominance of management throughout most of our industrial development period. By and large, management has taken into account such criteria as it considered applicable and has made such wage adjustments as it believed appropriate; labor has had little choice except to go along.

I do not propose here to make any effort to evaluate the results to society at large of that conventional economic development, but for the purpose of this discussion I must emphasize its one-sidedness. That it produced a high standard of living for many people and great luxury for a few is obvious; whether the fantastic natural resources of the country and the effort of its people could have been used to better advantage for more of its citizens is not relevant to the line of questioning I propose to raise in this symposium.

"WHITHER BOUND?"

The question I do want to ask with the greatest possible seriousness is, Where are we going now? There is little difference of opinion on either side, I assume, as to the undesirability

of continued conflict between worker and employer. Both will freely admit its temporary cost (at least) in output, in profits, and in wages; the more objective on both sides will generally admit that much of this temporary loss is permanent. Whenever the public has evidenced any interest in the question, it is likely to have been because of some inconvenience and to have resulted in more or less resentment at the necessity for its being involved, as an innocent bystander, in such quarrels. That the public itself may be the basic cause for these conflicts and may have to provide their solution, is only now beginning to suggest itself.

I am beginning to wonder whether our thinking in this difficult emotional field of human relationships has been entirely clear; whether we have not been dealing only in the superficial aspects of the problem instead of going to its roots.

A recent expression of satisfaction by one of the leaders of the Labor Party in Great Britain, as they celebrated the nationalization of the coal mines, is in point. Said he, "The old expression so common to a coal miner, of the master and his men, is now gone forever." There and here, the man who provided the job, who possessed the fundamental power to hire or fire, was about as much the master of the economic life of the individual as was the slave owner. That this power was not always abused, but very frequently was beneficially used, is beside the question. The power was there.

It was in 1826, I think, that England abolished the law under which a man could be executed for joining a labor union. In 1926 she had her general strike. That intervening hundred

years had witnessed the slow but steady assertion of more and more liberty for labor to the point where it now asserted its mastery. An outraged public rebelled then as it had a hundred years before, and, in the legislation that followed, tried to find a middle ground. To me, that legislation has always seemed temperate, judicial, and unbiased; yet today's Labor Party in power has rejected it as an unseemly indignity on labor's shoulders.

OUTWORKING OF COLLECTIVE BARGAINING

The question which I ask myself now, in endeavoring to find where we are going, is whether it is reasonable to expect that organized labor leadership and management will generally meet and stay voluntarily, for any length of time, in the middle of the road. Have we any right to expect collective bargaining, in a free enterprise system, regularly to deliver unselfish and statesmanlike behavior? It seems highly significant to ask if there was anything inconsistent with the principle of collective bargaining in any of the disastrous strikes of the early part of 1946. The only outstanding inconsistency that I can identify came neither from labor nor from management, but was represented by the interference of government, which refused to allow the basic principles of true collective bargaining to be worked out to a legitimate conclusion.

Of course, that interference was understandable in the light of modern political and economic thinking. Our everyday living has become so dependent on what other people do and fail to do that the free exercise of one man's rights may easily constitute an abuse to his neighbor. What particularly concerns me today in considering this vital matter of the public's attitude toward labor

and management is that these two groups are no longer completely free agents, and that collective bargaining is almost certain to be sharply hampered in its operations as a result of public pressures.

True collective bargaining cannot always be a harmonious procedure, and so long as men have human frailties, differences are likely to arise which only conflict will settle. It is asking too much to expect otherwise. But the point I want to make is that if they are to bargain collectively to a conclusion, they must be left alone. If they cannot agree, then, in theory at least, they must be allowed to disagree, whatever the result.

In support of its position, labor insists that its right to strike shall not be abridged, and it vigorously opposes any legislative steps that point in that direction. Management's right to lockout once paralleled labor's right to strike, and the language of industrial relations traditionally links the strike and the lockout as equal and opposite forces. Economic developments seem to have made this particular weapon of management rusty, unusable, and of little practical bargaining value. Generally today, management dares not assume the aggressive initiative of shutting a plant down in order to discipline its employees. One outstanding reason for that reluctance is the fear of a bad public reaction. Indirectly, the same end result can come about, of course, if management is unyielding in negotiation to the point where labor is forced to strike action.

It is significant to note the growing efforts on both sides to win public support. An extended national strike will generally be featured by widespread paid newspaper advertising by both labor and management, whose purpose will be to win over the understanding of the public.

THE PUBLIC ATTITUDE

In my thinking, all of this points unmistakably to the conclusion that the future trends of labor-management relations must and will be determined in the long run by the public. Nor need it be by positive action alone; the failure of the public to act at a critical time may be equally as effective as action in determining future results. The difficulty is in expecting statesmanlike and unselfish behavior from the public. With the heavy responsibility resting on its reactions, nothing but the most objective determinations will suffice; and yet this is very unlikely of attainment. Perhaps this is because the public generally has no single and clear method by which its views may be matured, and, more importantly, no efficient channel for seeing them carried out.

In some respects, our separation between the powers of the executive, the legislative, and the judicial branches of government makes the constitutional democratic process highly uncertain of accomplishment. This is not the case in Great Britain, for example, where the Cabinet can determine a policy, reasonably sure of acceptance by the Parliament and with no judicial uncertainty. There, the political party in power can take the position which it believes to be representative of the public view, carry it out, and stand or fall by it; because every such measure will be party responsibility, no single member of the Parliament will be blamed. Whatever Britain's public attitude is, therefore, as between labor and management, there is the legislative machinery to make it effective promptly. This contributes immeasurably to economic peace, because the rules are known to all.

Much of our difficulty arises from the very uncertainty as to what our

public attitude is today or will be tomorrow. Because of this uncertainty, the position taken by any single member of the Congress is likely to be one of personal political risk if a proposed action can be construed as unfriendly to labor. There was a time, long ago, when the same risk frequently attached to legislative actions unfriendly to management—to capital, as the term was then generally used; but the shoe is on the other foot now. What the politician needs to know today is what the public really thinks; and this is not easy to ascertain, because the public obviously has not fully made up its mind.

EXTENT OF PUBLIC INTEREST

Of course, the public knows what it does not like. It does not like industrial quarrels that interfere with everyday life; that deny it of things it wants or needs; that make travel or communication or daily living difficult or unsafe or impossible.

These interruptions can be inconveniences that arouse only annoyance; minor local labor-management disputes are of this nature. It is only when the conflict becomes more or less Nationwide, and the consequences affect enough people at the same time, that there arises the clamor to do something. Congress is deluged with petitions, letters, and telegrams, few of which represent mature conclusions but all of which demand action. Like the parent who is never able to thrash the child except when the parent is out of temper, so about the only time we demand that Congress do something about the difficulties between management and labor is when we are so angry that nothing lasting can be expected to result, except more hard feeling. There has already been enough of that in the field of labor relations.

As to the national interest in con-

tinuance of work in a few basic industries, there is not likely to be much argument. Coal, transportation, and public utilities are so vital to the daily life of the citizen that he may properly insist that his right of supply shall take precedence over the claims of either labor or management. Indeed, I feel sure that this will happen unless the leaders of labor and management show a greater determination to avoid the use of the strike weapon than they have in the past. There is a fringe of basic industries, steel for example, as to which the case is not nearly so clear; and yet a sustained steel strike can paralyze the country's economy, throwing countless thousands of employees of other industries out of work.

For industries whose impact on daily life is less serious, improved mediation procedures may be adequate. Mediation has risen to a high level of accomplishment in numerous localities during recent years. I would particularly point to its value in the Philadelphia area during the days of the National Recovery Administration, when the impartial board headed by Dr. Jacob Billikopf, and made up equally of top-flight men from management and labor, settled most of Philadelphia's industrial conflicts without strike.

With the right kind of men, commanding the confidence of the community (that means the public), this can be done now. But it cannot be done with the inadequately financed and staffed mediation service we have today. I believe men of high caliber can be found to give time to the critical task, once the need has been made clear. Only the President can do that, I am afraid.

Without workable machinery to reduce these industrial dislocations to an unobjectionable minimum, the public will most certainly demand action from the Congress. Neither labor nor man-

agement will like what will probably result.

PROPOSALS FOR STUDY

The President's proposal that the Congress thoroughly study the basic conditions which cause labor unrest, and enact sound legislation directed to its removal, is beyond criticism; but if the past is any guide to the future, it is likely to produce little of value unless some new approach is found. The usual formal public hearings of the labor committees of both houses would hardly add much to what they have already accomplished. Any such normal procedure is inevitably entangled with political pressures from the very outset. Some new mechanism must be found, I should think, that would give steady promise of holding the confidence of the public in its conclusions, so that the Congress could translate these, without undue risk, into effective legislation.

Since the first requirement of such a study group is public support, means would need to be found for polling public sentiment for nominees, and whatever the other membership of this group, the public representatives must be in the majority, if my thesis as to public responsibility is to be accepted.

This study group might well be appointed by the President and ratified by the Senate and the House. The President would have to be convinced of the deadly seriousness of the problem, and select a panel whose integrity, intelligence, sense of national interest, and courage, were above reproach. This is a large commitment for a democratic society as undisciplined as ours is, but the need for a reasonable solution is urgent.

Proposals are being made, at this writing, that the President call another conference of representatives of labor and management in the hope that, with

better preparation, they may now find solutions to questions unsolved at the meeting of a year ago. Unless some wholly new approach is found wherein the public interest is acceptably and dominantly represented, I should be doubtful of any more success than attended the last meeting. With the uncertainty of both labor and management as to the rules that will govern their future relations, is it not asking

too much to expect them to make any considerable sacrifice of position now?

The one thing both have in common, of course, is a dislike for compulsory arbitration; and it is the fear that public insistence may bring a wider use of this autocratic power that should make both management and labor somewhat more willing to find acceptable procedures to limit work stoppages that substantially affect the public interest.

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Requirements of a National Labor Policy

By LUDWIG TELLER

THE basic task in any blueprint representing the hopes of a democratic society is to reconcile freedom with security and a better life. It is becoming increasingly clear that the effectuation of this task is being hindered in the field of labor relations by the absence of a national labor policy. Few will contend today that the Wagner Act expresses anything more than a segment of a labor policy, albeit concededly an important segment. That act says simply that labor unions should grow, like Topsy. But the idea of a policy in any fair system of government imports definitions of rights and wrongs, of rules of the game to which all parties in controversy are required to conform.

Now what are the requirements of a national labor policy? A distinction should be drawn between the role of law in labor controversies, and the question whether and to what extent the government ought to intervene as mediator to bring about the adjustment of lawful controversies. The role of law in labor controversies deals with the formulation of social and public interests which take precedence over rights and interests asserted by given persons or groups at given times and places. The settlement of disputes has to do with the numerous subjects of quarrel which arise in the field of collective bargaining, such as wages, hours, job security, and management functions.

THE ROLE OF LAW IN LABOR CONTROVERSIES

More than a decade has passed since the Wagner Act became law on July 5, 1935, during which scores of labor bills have been proposed in Congress. Except for the so-called "Petrillo Law"

(the Lea Act) and the Hobbs Anti-Racketeering Law, both of limited application, and the Smith-Connally Anti-Strike Act (which was no antistrike act at all, but a strike-encouragement law), none have passed. It is well that they did not pass. Most of them incorporated repressive labor legislation, often reflecting the pet peeves of the proposers. Some of them were in the nature of crisis legislation, ignoring equally pressing long-time problems. As many were simply innocuous. Others, like the recently vetoed Case bill, were disorderly assortments of random prejudices. A substantial number ignored the basic problem, preferring instead to concentrate on irrelevant and less pressing proposals often grounded in ignorance of established law, like the suggestions that labor unions should be required to incorporate, or open their books to the public, or secure licenses to carry on their affairs.

The basic problem is one of labor policy patterned on a labor relations point of view. The antitrust laws should be restricted to business restraints. Their extension to labor unions and union activities cannot be the proper basis of a sound labor policy, for the problems in the two fields are radically different. Combinations of capital or enterprise have backgrounds and objectives which are foreign to organizations of workingmen formed to secure a greater share of the Nation's resources and productivity in return for personal services. The peril to public and social interests may be as great in one case as in the other, but it is a different kind of peril, requiring different kinds of solutions. Similarly, the antiracketeering law is aimed at criminal extortion and plans for securing ob-

jectives through violence, and should be limited to these subjects.

Emphasis on this type of legislation in talking about the current labor problem serves only to confuse the larger requirement of labor policy. It is submitted that the government must do at least four things to effectuate the proper role of law in labor controversies:

FORMULATION OF SOCIAL AND PUBLIC INTERESTS

First: It is necessary that the government formulate the social and public interests in labor disputes, and direct organized labor and management to conform to these interests.

One of these is the interest in full production. Interference with full production, or with the introduction or use of mechanical invention, should be declared illegal. To be sure, mechanical invention has often hurt the little fellow, but it has also created new fields of opportunity for small and medium-sized businesses, as in the field of radio. It may be impossible to calculate the impact of invention on old and new industries, but the American standard of living is proof of its over-all accomplishments. The job ahead is impeded by such practices as the quota and make-work rules in the building and electrical trades, feather-bedding in the railroad industry, and the stand-by system in the musical field.

The suggested rule of illegality should apply to collective agreements as well as to strikes whose purpose and effect are to stifle production or to pay for unneeded services. The Lea Act condemns the use of force and similar action to secure agreements for the payment of money for such things as unneeded services, but it does not outlaw agreements containing such provisions. It is an open question, in these circumstances, whether an agreement may be

voided under the act because the agreement was made under threat of strike. This is in addition, of course, to the fact that the Lea Act applies only to the radio broadcasting industry, leaving untouched the manifold restrictive rules and practices prevailing in other industries.

Union security

Another social and public interest is that arising in connection with the subject of union security. The desirability of one form of union security over another should be left to voluntary collective bargaining, but the closed-shop arrangement should be declared illegal as an unwarranted impediment to access to the employment market.

Organized labor's arguments in support of union security are now well known. All those who secure the benefits of union activities should, it is said, share their burdens; unions should be secure against attacks by employers and others; unions should have control over the job market to protect their employment gains from depredation of unemployment and outsiders generally. Management, on the other hand, contends that unions should have the sole responsibility for recruiting and maintaining members; that management should not be required to take a hand, let alone a helping hand, in the tasks of union recruitment and maintenance; that unions should not be permitted to secure exclusive control over the job market. It will be seen that a part of management's quarrel is a generalized attack on union security, a point of view which cannot be recognized in the face of widespread acceptance of the view that unions are desirable organisms of our economic society.

But the argument assumes larger importance insofar as it touches upon the problem of control over the job market. A democratic society, operating within

the framework of the system of free enterprise, proceeds on the assumption that the people, by free thought and free action, can achieve a social order. The paths to jobs and markets must be kept free if this assumption is to be realized. In its recent decision in the *Associated Press case*,¹ the Supreme Court of the United States held the by-laws of the Associated Press to be invalid partly on the ground that they "tended to block the initiative which brings newcomers into a field of business." Similarly, any governmental policy which would, by its inaction, permit control over job markets and job availability to be placed in the hands of any private person or group, whether unions or others, tends to stifle the initiative of those who have a right to participate in the economic life. It may be recalled that a measure of the justification for the rise of labor unions has derived from their efforts to secure to workingmen freedom from practices, such as blacklisting, which have interfered with free access to employment opportunities.

Legislation on the closed shop

Existing state statutes fail to deal with the closed-shop question on any but generalized or inadequate levels. In Alabama, Florida, and South Dakota, all forms of union security have been outlawed. In Colorado, Kansas, and Wisconsin, the validity of the so-called "all-union" shop is made to depend upon approval of a specified percentage of employees in the bargaining unit. This is also the approach of the Ball-Burton-Hatch bill. It proposes that the closed shop shall be legal if a certain percentage of employees in a bargaining unit votes for it and provided also

that any person employed or seeking employment by the employer, shall be admitted to membership in such labor organization on terms and with advantages substantially equivalent to those available to and enjoyed by at least a majority of the existing membership.

This proposal is of doubtful wisdom, for the larger problem involved in the closed-shop issue is not whether certain employees favor it, but whether it protects or impedes rights in access to the employment market. And the guarantee of rights in the labor organization will not prevent its promulgation of seniority rules which may work a deprivation of these rights.

Various provisions

In addition to these basic rules of public policy, several others ought to be formulated. There should be a guarantee of democratic rights in labor unions, so framed that it will not be construed as an effort to pry unduly into their internal affairs. There should also be provision against discrimination, whether by employers or labor unions, based on race, color, creed, or political considerations. The breach of collective bargaining agreements, or strikes and lockouts in breach of such agreements, should be outlawed.

The so-called "secondary boycott" (which is a term having a number of meanings depending in part upon the type of concerted labor activity involved, i.e., whether striking, picketing, or acts of persuasion or coercion of third parties to labor disputes) should be regulated. Labor should have a right to engage in concerted activity against those who aid employers involved in labor disputes, but third parties innocent of participation in the primary dispute should be protected from such concerted activity.

A set of rules should be adopted to govern industry-wide collective bargain-

¹ *Associated Press v. United States*, 326 U. S. 1 (1945).

ing, designed to prevent the use of such bargaining as a means either of excluding outsiders from the industry or of engaging in trade-restraining or price-fixing practices. Disorderly conduct, including violence, sit-downs, slow-downs, and the use of strikebreaking agencies or practices, should also be proscribed.

The rights and obligations of labor unions in government employment should be clarified. Modernized systems of personnel relations should be established in the government service recognizing that the government has been entering many fields of activity hitherto carried on by private industry; but it should be made clear that collective bargaining in the ordinary sense, the notion of the "exclusive" bargaining representative, employment preferences on account of union membership, and strikes are all unsuited to government employment.

Finally, the existing guarantees afforded to organized labor in the Wagner Act should be continued and if necessary strengthened.

The scope of regulation

There will perhaps always be differences over the question whether given subjects should be formulated in policy form to be governed by law, or left to voluntary collective bargaining. The Ball-Burton-Hatch bill, for example, declares it to be an unfair labor practice for employees to interfere with the "normal and reasonable authority of management." It would seem, however, that the subject of management functions under collective bargaining is not amenable to statutory formulation, being too complex, and having aspects varying from industry to industry. And a vaguely worded law might be worse than none at all, for it would be a double-edged sword; management itself might rue the day when it consented to

governmental fixation of the law of reasonable management functions. The matter is better left to the development of institutions.

This may also be said about the question whether supervisory employees should be permitted to engage in collective bargaining. The National Labor Relations Board, reversing its decision in the *Maryland Drydock Company case*,² has recently reverted to its original position granting the protection of the Wagner Act to unions composed of supervisory employees.³ This was perhaps inevitable, since the Board recognized that its decision in the *Maryland Drydock Company case* was an invitation to disorder, for that case did not declare foremen's unions to be illegal. It simply said that the Board would not support the bargaining rights of foremen's unions. It did not say, nor could it under any authority contained in the Wagner Act, that strikes by foremen's unions are illegal.

Several states have outlawed collective bargaining by unions of supervisory employees. Under the Case bill, supervisors were to be given the right to organize and engage in strikes, but without the protection of the Wagner Act unless they had engaged in collective bargaining prior to July 1, 1935.

The fairness of these legislative approaches is not at all clear, in the light of the fact that supervisors, especially in mass production industries, often have substantially as much need for collective bargaining as rank-and-file workers; but a collective bargaining agreement covering supervisory em-

² 49 NLRB 733 (1943); 50 NLRB 363 (1943).

³ Matter of Packard Motor Car Company, 61 NLRB 4 (1945), 65 NLRB 204 (1945); Matter of Jones & Laughlin Steel Corporation, 66 NLRB 51 (1946), reverting to Matter of Union Collieries Coal Company, 41 NLRB 961 (1942); Godchaux Sugars, Inc., 44 NLRB 874 (1942).

ployees will need to depart in a number of substantial respects from similar agreements relating to rank-and-file workers.

It is doubtful whether the alleged social interest in the joint employer-union administration of health and welfare funds can be codified into a workable law. The Case bill, inspired by the dispute between the mine operators and the United Mine Workers, contained a mandatory provision for joint administration. But there are serious questions whether any law growing out of the industry-and-area-wide collective bargaining exemplified in the country's mines can be applied to American industry generally, for we have not yet reached the stage of universal industry-wide collective bargaining. A number of unions, moreover, have collective bargaining agreements in several industries.

The necessity for public concern over the unregulated accumulation of large sums of money by unions may, however, be conceded. It might be well to declare a general policy in favor of joint administration of welfare funds where employers' associations exist in the given industry or area. In any event, there would seem to be nothing wrong with a statute which would make it a crime to use welfare, retirement, or similar funds for other purposes, such as in support of a strike or a lockout.

JURISDICTIONAL LABOR CONTROVERSIES

Second: The government ought to assume the burden of doing that which neither management nor organized labor is able and willing to do.

The most prevalent examples of management inability and labor unwillingness are cases involving jurisdictional labor controversies. Logically, organized labor should bear the burden of resolving such controversies, since they are of organized labor's making. Management, of course, cannot generally as-

sume the burden. Hence the government should undertake it. Paradoxically enough, however, the burden of resolving such disputes is placed not upon labor, not upon the government, but upon management.

The unfairness of the present regime in cases of jurisdictional labor controversies may be illustrated by a line of decisions under the Wagner Act. In the *Star Publishing Company case*,⁴ it appeared that the employer, a newspaper publisher, distributed his newspaper through an AFL teamsters union. The circulation department employees became members of the American Newspaper Guild, a CIO affiliate. Thereupon the teamsters demanded that the circulation employees join the teamsters union. Upon their refusal to do so, the typographers, stereotypers, and press-room employees, AFL affiliates, struck in support of the teamsters' demand. The employer called upon the circulation employees to distribute the paper, but they refused, partly because delivery of papers was not within their jurisdiction. The employer then turned to the teamsters union, which undertook to replace the circulation employees, who were thereupon discharged. The National Labor Relations Board held this to be a violation of the Wagner Act, and directed the reinstatement of the circulation employees with back pay. "We realize," said the Board, "that the employer was placed in an unenviable position, but the violation of the act is unmistakable."

Later, however, in the *Mail Steamship Company case*,⁵ the Board adopted a more realistic point of view. It appeared in this case that a CIO union engaged in sit-downs and violence because AFL men were on the job. The employer thereupon discharged the AFL

⁴ 4 NLRB 498 (1937), enforced in 97 Fed. (2d) 465 (C.C.A. 9, 1938).

⁵ 34 NLRB 1028 (1941).

men. The Board found this time that the employer's violation of the act was only "technical," and refused to direct the reinstatement of the discharged employees.

Relying on this decision a trial examiner in a subsequent decision, the *Greer Steel Company case*,⁶ refused to recommend the reinstatement of employees discharged under compulsion of rival union activity. The Board nevertheless reversed the examiner, reasoning that the compulsion in the case was not so severe as that which existed in the *Mail Steamship Company case*.

The logic of these cases is to encourage an employer faced with a jurisdictional labor controversy to request one of the unions to engage in extreme violence so as to permit him to discharge the rival unionists! Apart from the fact that the foregoing cases constitute government incitement to violence, they give point to the unfairness of the present Federal regime, which on the one hand places upon management the burden of resolving jurisdictional labor controversies, and on the other hand punishes management for taking action necessary to rescue a business threatened with ruin by such controversies.

It is recognized that a simple yes-no rule cannot be applied to jurisdictional labor disputes. The objectives should be to provide orderly and efficient machinery for the choice by employees of labor organizations, and to ensure periodic review of designated unions if such review is requested by a sufficient number of employees in the given bargaining unit. Within the rules governing this established machinery, strikes or other forms of concerted activity should be declared unlawful.

SINGLE INTEGRATED LABOR LAW

Third: It is essential that these for-

⁶ 38 NLRB 157 (1941).

mulated social and public interests be codified into a single integrated law and not, as now, left to various statutes which operate unevenly and often contradict each other.

Illustrations of the uneven application of existing labor laws are easily found. The Wagner Act, for example, applies to industries which "affect" interstate commerce. The Fair Labor Standards Act, on the other hand, governs the wages and hours of employees "in industries engaged in commerce or in the production of goods for commerce." Because of this definition, maintenance employees of an interstate banking business were held to come outside the act⁷ when concededly they would be entitled to the protection of the Wagner Act.⁸

The child labor provisions of the Fair Labor Standards Act are governed by yet another definition of interstate commerce. Because of the technical qualities of this definition, the Supreme Court of the United States has recently held that messengers employed by the Western Union Telegraph Company are not protected by the child labor provisions of the act,⁹ though unquestionably they would be entitled to the wage and hour provisions of the same act.¹⁰ There is also little doubt that they would be entitled to the protection of the Wagner Act.¹¹

Illustrations of the contradictory application of existing labor statutes also abound in goodly number. Under the Wagner Act, for example, the union designated by a majority of voting em-

⁷ *Stoike v. First National Bank*, 290 N. Y. 195, 48 N.E. (2d) 482 (1943).

⁸ See *NLRB v. Polish National Alliance*, 322 U. S. 643 (1944).

⁹ *Western Union Telegraph Company v. Lenroot*, 323 U. S. 490 (1945).

¹⁰ *Ibid.*, at p. 499.

¹¹ See, for example, *Matter of Western Union Telegraph Company*, 58 NLRB 1283 (1944), 61 NLRB 110 (1945).

employees in an appropriate bargaining unit becomes the "exclusive" bargaining representative of these employees. The employer is legally obliged to deal with such union, and he is forbidden to deal with any other union. Yet, if a minority union engages in a strike, or if an outside union boycotts the employer, he is unable to stop it.¹² The purpose of the strike or boycott under these circumstances is to compel the employer to violate the law, but, because of the provisions of the Norris Anti-Injunction Act, the employer is unable to secure relief against the illegal activity.

Again, an employer is obliged, under the Wagner Act, to reinstate with back pay those whom he is found to have discriminatorily discharged. But the employer does not, except in extreme cases, have any redress under the act against employees engaged in violence or the destruction of property. We are told that other laws exist to redress such wrongs; but the adequacy of these laws is doubtful, and in any event, why should not a single law deal with the entire subject? The lack of integration is an encouragement to unruly conduct, since it fixes rights without regard to relevant wrongs committed.

EFFICIENT ADMINISTRATION AND ENFORCEMENT

Fourth: It is desirable that the codified law be implemented by efficient and expeditious procedures of administration and enforcement.

The administration and enforcement of a national labor policy should be entrusted to a specially created labor court. Though denominated a court to emphasize its judicial functions, it is conceived as an administrative agency, not an arm of the judiciary.

The judicial function has proved un-

equal to the task of formulating an adequate labor policy. This has been due in part to the individualism of the common law, which the industrial revolution intensified. The doctrine of conspiracy has demonstrated a lack of sufficient substance and content upon which to predicate a meaningful labor policy. Whatever the propriety of equitable relief in commercial cases, it has proved inequitable as expressed in the labor injunction. The antitrust laws have substantially failed as applied to labor cases, largely because the rules and principles governing business restraints are basically different from those necessary in the formulation of a labor policy. Judges have lacked expertship, and court procedures have been uncentralized and inexpedient.

By contrast, the hallmarks of the administrative process are expertship, centralization, and expedition. Especially in the complicated field of labor relations, a knowing approach is indispensable to the drawing of proper lines of right and wrong.

The existing labor laws are chaotic insofar as they relate to administration and enforcement. The Wagner Act utilizes the administrative process, and reserves to the National Labor Relations Board, denying to private persons, the right to make complaint charging violation of the act. The Fair Labor Standards Act, by contrast, delegates the interpretation of its provisions to the courts, and leaves to aggrieved employees the task of suing for unpaid compensation. The Sherman Anti-Trust Law provides for criminal penalties, injunction suits brought by the government, and treble damage suits instituted by private parties. Other statutes employing criminal sanctions are the Anti-Strikebreaking Law, the Anti-Racketeering Law (Hobbs Act), and the Petrillo Law (Lea Act).

¹² See *United States v. United Brotherhood of Carpenters and Joiners of America*, 313 U. S. 539 (1941).

An integrated plan of administration and enforcement, under a single law covering both labor relations and wage-hour matters, would do much to mitigate the disorder of the present labor laws. By being cast in the frame of the administrative process, it would avoid not only the shortcomings of random, inexpert, uncentralized judicial attention, but also the application of criminal sanctions (except where required by the nature of the case, as in the Hobbs Act) to matters of unsettled policies and practices. As a quasi-judicial agency, the proposed labor court should, like the National Labor Relations Board, be independent of the Department of Labor.

THE GOVERNMENT AS MEDIATOR

The postwar national economy has been imperiled by one labor crisis after another, giving rise to increasingly insistent support for a system of compulsory arbitration. The Ball-Burton-Hatch bill, for example, provides for compulsory arbitration in cases of dispute involving public utilities or industries affecting the public interest.

UNWISDOM OF COMPULSORY ARBITRATION

The adequacy or wisdom of compulsion may be questioned on a number of grounds. The most readily available argument against it is, of course, that it imperils a number of democratic rights. The right to strike and to engage in other lawful forms of concerted labor activity is closely identified with the meaning and destiny of a society of free men. But management circles are often just as adamant as unions in their opposition to compulsory arbitration, because of its dangers to the operation of essential management functions, and because the settlement of wage disputes might lead to definitions

of a "reasonable" profit for industry, thereby also laying the foundation for governmental price and profit control.

Quite apart from questions of political economy, it is extremely doubtful whether compulsory arbitration will bring peace. The Whitley Committee Report in England, for example, showed that compulsory arbitration in practice provoked strikes and that criminal penalties were no deterrents. Writers on labor problems have generally agreed that compulsory arbitration has failed in democratic foreign countries. Again, it may strengthen the influence of leftist groups in labor unions by tying the hands of law-conforming union officials. In the present disunited state of our labor unions, this is a factor which ought not to be overlooked.

Moreover, compulsory arbitration may be expected to provoke periodic labor crises resulting from the accumulation of unadjusted viewpoints, whereas the voluntary development of institutions might more readily tend to solve problems as they arise. An important aspect and cause of the immediate postwar violent upsurge of industrial unrest was the reaction to the lifting of the wartime system of compulsory arbitration administered by the National War Labor Board, which had deferred answers to a number of pressing industrial questions in the interest of temporary harmony.

Finally, compulsory arbitration places an undue emphasis on litigation in collective bargaining. The common law very wisely adopted the rule that husband and wife could not sue each other in the courts except for divorce and separation. It was realized that the close relationship was incompatible with unrestricted litigation. The relationship of management and unions representing their employees is similarly a day-to-day living together in which litigation would be more of a disturbing influ-

ence than one conducive to the proper settlement of differences between the parties. The over-all problem, after all, involves the adjustment of conflicting values in the economic life. Labor unions seek not alone the beneficial interpretation of existing laws, but the achievement of new laws based on new conceptions.

DESIRABILITY OF VOLUNTARY COLLECTIVE BARGAINING

It is submitted that the alternative to unrestrained industrial warfare is not compulsory arbitration but the genuine acceptance of voluntary collective bargaining by management and organized labor. Management undoubtedly shares part of the blame for many instances of breakdown in the processes of collective bargaining. The Wagner Act obliges management to bargain in good faith with organized labor, but some segments of management have transferred the battle against unions from the picket line to the conference table; and in many management circles, spurious issues are raised regarding the allegedly essential conflicts between union rights and individual rights.

Organized labor, on the other hand, has often been responsible for the disruption of collective bargaining, as by demonstrating disrespect for the obligations of agreements and for the essential functions of management. The complaint of union irresponsibility has taken on intensity from the use by some unions of the process of collective bargaining as an instrument of political activity. American labor unions must, if the process of collective bargaining is to succeed, accept their status as principals in the process of collective bargaining. They will have to come around to the view that the collective bargaining agreement is a compact setting forth mutual rights and obligations, not simply a document of restric-

tions on the common-law rights of management. Full production, for example, is not simply a legislative problem or a management undertaking, but a union responsibility as well.

DEFECTS IN EXISTING MEDIATION MACHINERY

Under the suggested regime of voluntary collective bargaining, the furnishing of services and procedures of a character justifying respect by both management and organized labor is a heavy responsibility of the government. To accomplish this objective, the government ought to recast its adjustment procedures by creating a national mediation agency, independent of the Department of Labor, to take the place of the existing Conciliation Service.

The Department of Labor was established to engage in activities necessary to better the conditions and welfare of American wage earners. William Wilson, the first Secretary of Labor, frankly stated that "primarily the Department of Labor must conserve in industrial disputes the interests of the wage earners of the United States."¹⁵ Notwithstanding that the act establishing the Department of Labor made the Secretary of Labor a partisan of labor, the Conciliation Service was placed within the jurisdiction of the Department under the guidance and direction of the Secretary of Labor. It is plainly improper for the government to intervene in controversies under a statute which makes its agents partisans of one side to such controversies. The resulting suspicion prevalent in many circles in regard to the intervention of the Conciliation Service is harmful to the very purpose sought to be accomplished by it.

The Conciliation Service is said at one time to have been a depository for discarded labor leaders. It is also said

¹⁵ Second Annual Report of the Secretary of Labor (1914), p. 21.

that the staff is composed of too many do-good gentlemen and not enough persons skilled in labor relations and labor policy. Secretary of Labor Perkins openly stated that the sole purpose of the intervention of the Conciliation Service was to terminate strikes, upon whatever terms this could be done.¹⁴ Conciliators have often been known to be little more than reporters to each side of the controversy, of the viewpoints entertained by the other. Some of these defects have undoubtedly been surmounted in given areas and by some persons of recognized skill and competence attached to the Conciliation Service. The underlying shortcomings, however, still exist.

MEDIATION AGENCY PROPOSED

It is obvious today that these shortcomings are serious, since the parties to controversies may be expected to rely more and more heavily upon governmental assistance and guidance. It is therefore clear that what is needed is a full-time mediation agency, independent of the Department of Labor, equipped to give continuous and competent attention to the settlement of labor controversies.

Some thought should also be given to the question whether there ought not to be a legal obligation on the part of both organized labor and management to accept the intervention of the proposed mediation agency.¹⁵ If this obligation were coupled with a duty to inform the mediation agency of strikes, intended strikes, and labor disputes generally,

the full power of the government could be directed in an orderly fashion to the mitigation of the causes of industrial strife.

One of the things that might profitably be done would be to establish an arbitration tribunal of the Federal Government. Unlike the existing Arbitration Division of the Conciliation Service, the proposed tribunal should be independent of the mediation agency, thereby emphasizing the judicial tasks performed by arbitrators. Decisions of arbitrators ought to be published in bound volumes at the government's expense, thereby providing, for the first time, a systematized source of labor jurisprudence. And having regard for the judicial function performed by arbitrators, it ought to be provided by law that arbitration proceedings may not be carried on in the face of the threat or continuation of a strike or lockout, that arbitration awards are binding upon the parties, and that strikes or lockouts in breach of such awards are illegal.

The suggested plan of government intervention is intended to preserve the essential qualities of voluntary action, while at the same time affording to the disputants a fair and expert source of assistance. Halfway measures of compulsion would hinder rather than assist the effectuation of the objectives of this plan. The tendency toward favorable consideration of "cooling-off" legislation, or employee strike balloting, is increasing in some circles but decreasing in others. The strike balloting provisions of the Smith-Connally Anti-Strike law, though intended to discourage strikes, were used instead to provoke greater enthusiasm for strikes, with the aid of public moneys for such purpose; and Congress in effect recently repealed the provisions by refusing to appropriate funds for any further balloting, though Congress had refused to listen when it was told that the strike

¹⁴ Inquiry as to National Defense Construction, Hearings before the House Committee on Military Affairs, 77th Cong., 1st sess., Pt. 2, p. 152.

¹⁵ The view taken by the National Labor Relations Board that the Wagner Act imposes such an obligation was reversed by the Supreme Court. See *NLRB v. Columbian Enameling and Stamping Company*, 306 U. S. 292, 297, 299 (1939).

balloting procedure would in practice incite strikes, and would certainly not abate them.

COOLING-OFF LEGISLATION OPPOSED

The opposition to cooling-off legislation on a national scale would also seem to be based on reasonable grounds drawn from experience. It is absurd, at the outset, to characterize a waiting period for strikes as a "cooling-off" period. Employees whose demands are subject to enforced delay are more likely to become warmer over the controversy. Cooling-off legislation, moreover, tends to delay collective bargaining by inducing employer reliance on statutory rules forbidding strikes. Such delays may themselves provoke strikes.

An adjunct to cooling-off legislation usually proposed is the appointment of fact-finding agencies to recommend the terms for settlement of controversies. It is submitted that fact-finding as a statutory institution constitutes an undue intrusion upon voluntary collective bargaining which may be self-defeating in many cases. Specific controversies or specific crises may require the creation or appointment of a special body or commission; but the existence of a permanent fact-finding body or statutory procedure is the kind of overhanging intervention in voluntary collective bargaining which may discourage the efforts of the parties themselves to bring about an adjustment of the given controversy. When such fact-finding bodies deliberate during a so-called "cooling-off" period, they do so under threat of strike, and their conclusions may sometimes be influenced by considerations other than those of sound labor relations policy.

It will undoubtedly be contended by some that there should be little objection to the cooling-off procedure, since such procedure has existed in railroad

labor controversies under the Railway Labor Act since 1926.

There are several answers to this contention. In the first place, the railroads have long been subject to governmental regulation, which has included the fixing of profits and the determination of various other practices. Even if it were assumed that the cooling-off procedure would be effective, there is reason to doubt the fairness of a proposal to extend to private industry the Railway Labor Act's limitation upon the right to strike, without corresponding regulation of industry.

Again, the railroad brotherhoods are fairly stable, experienced, generally conservative unions. Jurisdictional quarrels do occur (as in connection with the transfer of employees from one craft represented by a given union to another represented by a different union—a situation that has occasionally caused strikes); but the great battles over jurisdiction, such as the Pullman strike in 1890, were fought and settled before the enactment of the Railway Labor Act.

Third, union security has rarely been an issue. The Railway Labor Act outlaws the union shop, apparently with the blessing of the labor unions in the industry.

As a fourth point of caution, it may be noted that the practices in the industry, like feather-bedding, indicate a tendency to settle labor controversies at the expense of the public.

Finally, in the face of crises, the Railway Labor Act has not surmounted the threat of strike. The wartime wage controversy of 1943 is a good example. President Roosevelt was then obliged to grant a wage increase to railroad workers in frank violation of the wage stabilization laws and over the opposition of the Director of Economic Stabilization. The national emergency recently precipitated by the strike called

by the Railway Trainmen and the Railway Engineers in defiance of an emergency board's decision is another case in point. Many persons are becoming increasingly aware of the fact that the Railway Labor Act has often impeded direct collective bargaining by encouraging either party to take preliminary discussions lightly, the parties preferring to withhold commitments pending the creation of statutory and emergency boards.

A GOVERNMENT SEIZURE PROGRAM

Despite the wisest formulation of policy and its implementation by efficient procedures in the fields of law-making and mediation, plant seizure may have to be resorted to in cases of strikes gravely affecting the public interest. Undoubtedly we need a carefully formulated government-seizure policy, as distinguished from the obscure and confusing one now contained in the War Labor Disputes Act. But the President's Seizure bill (which at this writing is apparently being allowed to die quietly in congressional committees) is not entirely a step in the right direction; for the means of effectuating seizure, like labor legislation, should reflect a labor relations point of view—not one expressed in such things as the drafting of labor.

The larger vice of the President's program is that it encourages strikes aimed at securing seizure. This it does by denying net profits to employers of seized plants, while at the same time

guaranteeing to the strikers retroactivity of any benefits contained in the agreement made in settling the controversy. Fairness to both sides would require that each case be settled on its own merits.

The President's proposed seizure law does not establish any agency authorized to adjust the controversy which brought about the labor dispute leading to seizure. The function of adjustment is apparently left to the President or to a person or body designated by the President in the particular case. The resulting danger is that settlements might be dictated more by political considerations than by sound labor relations or over-all public policy.

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It may be conceded that the proposed plan of governmental intervention is not perfect, but it would seem to be the fairest in any system based on voluntarism. Peace is important, but so are the precepts of a free economy, the interests in attaining a greater measure of economic security, and the desirability of achieving a better life for all, not simply some. The proposed labor code is conceived in the idea that the adjustment of these various claims can best be accomplished through the encouragement of direct collective bargaining supplemented by adequate voluntary, impartial government adjustment procedures operating within the framework of a fair, detailed, efficient, consciously formulated public policy.

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Proposed Federal Labor Legislation

By JOSEPH H. BALL

IT IS as certain as anything ever is in politics that labor legislation and its consideration will be a major issue in the Eightieth Congress, to an even greater degree than it was in the Seventy-ninth Congress. All public opinion polls place labor legislation at or near the top of the domestic issues on which the people believe Congress should act. Nearly two-thirds of both houses of Congress voted for the Case bill in 1946, and President Truman, while vetoing that bill, nevertheless recommended some labor legislation, signed one bill, and urged a joint committee to prepare bills for the next Congress.

Legislation in this field proposed or discussed falls in five general categories, which can be stated briefly as follows:

1. Legislation strengthening and improving Federal mediation machinery for peaceful settlement of labor disputes;

2. Legislation placing on unions and their leaders responsibilities commensurate with the economic power they wield today, limiting union encroachment into management functions and otherwise more nearly equalizing the collective bargaining positions of unions and employers, which in recent years have become badly unbalanced on the side of unions;

3. Legislation protecting the rights and freedoms of individual workmen against abuse by union leaders or majorities, and establishing minimum standards of democracy for unions;

4. Amendment of the Wagner Act to make it more impartial and bring it up to date;

5. Legislation dealing with the extremely grave and urgent problem cre-

ated by industry-wide bargaining and the consequent threat of industry-wide shutdowns in the production of goods or services vital to the Nation's economy.

The general terms of legislation dealing with points 1, 2, and 4 have been fairly well indicated by previous legislative attempts. But the formulation of a legislative approach to the third and fifth problems, which probably are the most serious we face, is still ahead of us, and considerable study and hearings will be necessary before there is any crystallization of congressional opinion as to a specific line of approach.

The legislation acted upon by the Seventy-ninth Congress dealt entirely with the first two and the fifth problems, although except for the Hobbs Anti-Racketeering bill, none of it became law.

FEDERAL MEDIATION MACHINERY

In passing the Wagner Act in 1935, Congress specifically adopted the principle that assurance to workers of the right to organize and bargain collectively would bring about, or at least promote, industrial peace. That something more is needed has now become obvious. Outside of the Railway Labor Act, which sets out in detail the mediation and adjustment procedures which both parties to a dispute must exhaust before there is a stoppage, no Federal statute imposes any obligation on either employer or employee beyond collective bargaining, and the unions are under no legal obligation even to do that. In other words, if collective bargaining results in a disagreement and threatened strike, all the Federal Government can do is ask the disputants to submit to mediation or arbitration.

The only mediation agency in the

government outside of the National Mediation Board, established for railroads alone, is the Conciliation Service in the Department of Labor, which functions directly under the Secretary. Inasmuch as the Secretary of Labor is required by statute (the organic act creating the Department) to be a partisan of organized labor, this Service can hardly be considered either adequate or impartial. One essential for an effective mediation service on which all students agree is that both parties must have confidence in its impartiality and fairness. For many years, most of the conciliation commissioners in the Service were former union business agents; and although there has been some improvement lately, the Service is still overloaded with conciliators whose background is union. That is not surprising, since up until ten years ago, union leaders were about the only people available with any real knowledge and background in labor relations negotiations. But it is also true that the unions regard the Department of Labor as their special agency, and have always exercised great influence in selection of its personnel and determination of its policies. It is no wonder, then, that employers have little confidence in the impartiality of its Conciliation Service.

Proposals for improvement

This problem of strengthening Federal mediation machinery was dealt with in the Ball-Burton-Hatch bill, introduced in June 1945 by myself, Senator Carl A. Hatch of New Mexico, and Senator (now Justice) Harold H. Burton of Ohio, as well as in the two versions of the so-called Case bill, that which passed the House and that which passed the Senate. All three bills set up an independent mediation board, appointed by the President and confirmed by the Senate, removing this function

from control of the Secretary of Labor. The B-B-H bill set up more elaborate procedures than the other two, fixing categories of disputes, and procedures to be followed in each, with both employers and unions required to exhaust the procedures before a strike or lock-out. The enforcement provisions of the bill were tied in with amendments to the Wagner Act, making violation of the obligations imposed on both employers and employees an unfair labor practice for either one. The bill also provided for enforcement by injunction.

The House version of the Case bill proposed to set up a tripartite board, composed of an equal number, at least two each, of representatives of management, labor, and the public, with a sixty-day "cooling-off" period required in a dispute when the board intervened. Enforcement would have been by injunction, with the Norris-La Guardia Act suspended when the board chairman filed a petition.

The Senate Education and Labor Committee, convinced that in a tripartite mediation board, as opposed to a judicial board such as the War Labor Board, the public members would in any event have to do all the work, substituted a board of five public members appointed by the President. The Conciliation Service of the Department of Labor would have been transferred to serve under the board. The mediation procedures were defined in some detail, although not so specifically as in the B-B-H bill. Grievance cases arising out of interpretation or application of an existing contract, for instance, were to be settled by reference to an impartial umpire or adjustment board, with the mediation board attempting conciliation only in exceptional circumstances. As a last resort in efforts to obtain a peaceful settlement, the board was to suggest voluntary arbitration to the parties.

As it came from the committee, the Senate version of the Case bill contained no sanctions whatever and imposed no obligation, moral or legal, on either management or labor to utilize the services provided or even give them a reasonable chance to function. Amendments adopted on the Senate floor, however, included a strong statement of congressional policy making it the moral duty of both parties, although not imposing a legal obligation, to give the mediation board when it intervened in a dispute a reasonable chance to function, and to exhaust all methods of peaceful settlement before a strike or lockout.

Another amendment required both parties to devote at least sixty days to both collective bargaining and mediation efforts to reach agreement when the board intervened. The sanctions for violation were very mild. An employer violating the act would be guilty of an unfair labor practice under the Wagner Act, while members of a union violating the sixty-day period would lose their rights under the Wagner Act to file unfair labor practice complaints against the particular employer involved.

A third amendment adopted on the floor provided for appointment of special Presidential fact-finding commissions in public utility disputes, with an additional thirty-day waiting period in such cases. This was the only portion of President Truman's recommendation in December 1945 for a special fact-finding bill that was incorporated in any legislation passed by either house. Testimony taken by our Senate committee convinced all of us that the fact-finding procedure could not be effectively adapted to general use at this time, chiefly because it approaches compulsory arbitration by the government, and while this may work in utilities, where rates are fixed by government, the areas of disagreement on funda-

mentals are too large in general industry for it to work well there.

These provisions were in the Case bill as it was repassed by the House and sent to the President, who vetoed it. In general, they represented a carefully drafted attempt to apply the basic principles of the Railway Labor Act to all of industry. Undoubtedly they can be improved upon, but it appears likely now that they will form the starting point for legislation in the Eightieth Congress dealing with this first problem, the strengthening of Federal mediation machinery.

EQUALIZING RESPONSIBILITIES

Our second problem, that of equalizing responsibilities between management and unions, likewise was dealt with in the Case bill by a number of amendments adopted in each house on the floor. I shall discuss those adopted in the Senate, since it was the Senate version which finally went to the President.

Welfare funds

The Byrd amendment dealt with so-called "welfare funds," demands for which are becoming more and more widespread in collective bargaining. The impetus came from the demand of John L. Lewis for such a fund in the amount of some seventy million dollars a year for his United Mine Workers. Lewis' demand was that the fund be contributed exclusively by employers and administered exclusively by the union. The Byrd amendment prohibited such contributions, but specifically authorized such funds when jointly administered, when established as trust funds subject to the safeguards applying to trusts, and when the terms of the trust were set out specifically in the agreement.

The amendment did not tackle the question of whether such welfare or health funds confined to a single in-

dustry are advisable in view of the Federal social security system and the probability that Congress will act soon on proposals for some general health program covering all industries. It merely sought to assure that such funds, when and if established, will be used only for the purposes specified and will not become union slush funds subject to misuse. That would seem to be the minimum the Federal Government must do in view of the fact that the cost of these schemes is paid for ultimately by the general public.

Legal responsibility

The Taft-Ball-Smith-Hatch amendment adopted provided that unions could sue and be sued in Federal court as legal entities for breach of contract, with liability for judgments applying only to union assets and not to the assets of individual members. This amendment provided also that in case of a wildcat strike in violation of contract (one not sanctioned by the union), the union would not be liable, but the individuals engaging in such a strike would lose their reinstatement rights under the Wagner Act. Irresponsibility of unions in fulfilling their contracts was a major complaint of employers at hearings in both houses. While perhaps somewhat overemphasized, there is no question that as the law and practice now stand, a collective bargaining contract is much more binding on the employer than on the union.

The only serious argument made against this amendment was that unions now can be sued in most states in the state courts. It is true that in some states unions are suable as legal entities, but in a great many the suit must be against all individual members; and in some states, because of various rules and interpretations, a suit for breach of contract is virtually impossible. In any event, since the Federal Wagner Act

has been held to compel an employer to sign a contract negotiated, it would appear only fair and just that such contracts be enforceable, without complications, in Federal court.

Supervisory employees

Another amendment by Ball, Ellender, Taft, Smith, and Hatch removed supervisory employees who exercise real management authority from the definition of "employees" covered by the Wagner Act. Under several recent two-to-one decisions, the National Labor Relations Board has held that these foremen are employees and that employers can be compelled to bargain with unions which the foremen choose, and cannot discharge them for joining a union, even a union of production workers whom they are supposed to supervise. The amendment would not prohibit such foremen's unions, or prevent supervisors from joining them. But it would prevent the NLRB from compelling the employer to deal with such unions if he felt that his management functions would be weakened thereby.

The argument for the amendment is that a supervisor cannot serve two masters—the union and his employer. The NLRB has held employers responsible for unfair labor practices committed by such supervisors, but at the same time, in the Jones-Laughlin case, has held that if they join a production-workers union (in this case the United Mine Workers which exercises strong discipline over its membership), the employer can do nothing about it and can be forced by law to deal with the union as regards the hours, wages, and working conditions of his foremen.

Secondary boycotts

A fourth Senate amendment, with the same sponsors, dealt with the problem of secondary boycotts by unions, making such boycotts, when in restraint of

interstate commerce, subject to action under the antitrust laws. A strike is a primary boycott against the struck employer. In a secondary boycott, members of a union either strike Employer A, or refuse to handle certain products used by A but made or handled by Employer B, in order to hit indirectly at Employer B, who either may be a nonunion employer or may have a contract with a rival union.

Recent Supreme Court decisions have interpreted the Clayton and Norris-La Guardia acts as exempting unions completely from the antimonopoly laws. One decision grew out of the practice of New York City Local 3 of the International Brotherhood of Electrical Workers, whose members refuse to handle or install any electrical equipment not manufactured by a few New York concerns with which Local 3 has contracts. The result is a tight monopoly on all electrical equipment used in New York City, for this little group of manufacturers, which incidentally does not include any of the major companies in the field. The monopoly is costing the people of New York a nearly 100 per cent increase in prices, but the Supreme Court has ruled that no Federal statute prohibits such a monopoly. This practice is spreading now in the construction industry, where much of the manufacturing is done by CIO unions, while the installation and construction work is rigidly controlled by AFL unions. The latter are boycotting goods made by CIO unions. The secondary boycott is widely used also by the Teamsters union, through the "hot cargo" device.

Racketeering and violence

The final amendment adopted by the Senate was offered by Senator Eastland, and simply attached to the Case bill the Hobbs Anti-Racketeering bill, which sought to correct a Supreme Court de-

cision of several years ago holding that unions were not subject to the original act prohibiting robbery or extortion affecting interstate commerce. After President Truman's veto of the Case bill, the Hobbs bill was passed separately by both houses and signed by the President, and is now law.

A provision aimed at making violence in picketing subject to Federal injunction was in the Case bill as it passed the House but was not included by the Senate and was not in the bill as it finally passed.

These provisions of the Case bill dealt with the complaints of union irresponsibility heard most frequently. While these provisions might be improved upon by further study, they are the product of many months of hearings and work, and unquestionably will provide the starting point in the Eightieth Congress for legislation to deal with this second problem in the labor relations field.

PROTECTING INDIVIDUAL WORKERS

There have been no carefully worked-out legislative proposals dealing with our third problem, that of protecting the rights and freedoms of individual workers in this day of closed-shop contracts. A constitutional amendment asserting the right of every citizen to work was offered by Senator Andrews of Florida, but died on the Senate calendar. In the original B-B-H bill, we proposed to amend the proviso legalizing closed-shop contracts now in the Wagner Act to prohibit such contracts to unions which arbitrarily restrict membership or deny members expelled a fair hearing; but this measure was not considered in committee.

It goes without saying that the right of an individual to work and earn a livelihood is even more fundamental in a free democracy than the right to organize and bargain collectively, and it

may be necessary to affirm this right by a constitutional amendment. While probably confined to a minority of unions, there is no question that many individual workers have been coerced and bullied by union leaders, that accounting for funds is very lax in some cases, and that in a few unions democratic procedures in holding elections and in considering contracts or disputes are a farce. Likewise, there are too many instances where unions enjoying a monopoly on employment opportunities by reason of closed-shop contracts have arbitrarily restricted such opportunities to a chosen few.

These conditions generally prevail when either Communists or racketeers somehow gain control of a union and entrench themselves. The racketeers usually operate on the basis of pure force and coercion, while the Communists utilize every parliamentary trick in the bag to deny the rank and file any chance to hear both sides of an issue, and occasionally resort to force on the picket line.

Nearly all of the hundreds of letters I have received from individual workers, mostly union members, since the B-B-H bill was introduced in 1945 have complained bitterly about this particular problem and have cited individual experiences to show the need for legislation. However, drafting a bill that will protect the individual adequately and yet not enmesh the union in a tangle of governmental red tape is going to be a very difficult task. The experience of employers in the early days of the Wagner Act is a warning against going too far in Federal regulation. Yet I believe some legislation is essential.

It is my own conviction that most of these abuses would disappear rapidly if the monopolistic and essentially unliberal closed-shop contract were outlawed completely, and if the public in-

sisted on real and impartial local law enforcement in labor disputes instead of the present "hands off" attitude displayed all too frequently by local sheriffs and police chiefs when there is violence or coercion. The Railway Labor Act specifically prohibits closed-shop contracts, and the brotherhoods are among the best-run and most completely organized unions we have. Once individual workers were free to join or quit a union as they chose, its leadership would be under the same compulsion as applies to elected public officials to do a good and fair job for the whole membership, and rackets would soon be eliminated.

If that is impossible because of the extent to which the American labor movement is misguidedly wedded to the closed shop, then the next best approach probably lies in amendments to the Wagner Act giving individual workers kicked around by union bosses the same right of appeal to and redress by the NLRB as when an employer commits an unfair labor practice.

AMENDMENTS TO WAGNER ACT

There is fairly general agreement as to some of the amendments needed to bring the completely one-sided Wagner Act up to date and make it consistent with the economic bargaining power now enjoyed by unions. The amendments of course will be fought by the union leadership and will be controversial in Congress, but probably will command majority support there.

One such amendment should change the present provision which the courts have interpreted as requiring them to sustain a finding of fact made by the NLRB if supported by "any evidence," regardless of how little. The act should require that NLRB findings be supported by the "weight of evidence" or be subject to court review.

Another amendment should make it an unfair labor practice for unions to refuse to bargain collectively. Too many of them in recent years have shown a tendency to present their demands to an employer and insist that he grant them forthwith or face a strike, which is hardly bargaining.

Finally, the NLRB should be required to hold an election to choose a bargaining representative on an employer's petition when the employer is threatened with a jurisdictional strike, and both unions and employees should be required to accept the results of such an election.

There may be other legislative proposals for meeting this fourth problem in the labor relations field, but these are the major ones on which opinion is fairly well crystallized.

INDUSTRY-WIDE BARGAINING

Our fifth problem, that of industry-wide bargaining and its consequences, is at the same time the most serious we face and the one on which so far there is the greatest dearth of ideas that offer much prospect of a satisfactory solution. To realize the seriousness of the problem, one has only to recall the vital products and services affected by industry-wide bargaining as it is now developing—coal; oil; telephone and telegraph communications; steel; railroad, truck, and water transport; and meat packing. In the past year we have had complete or partial shutdowns or threatened shutdowns of production in every one of these industries, and one has only to glance at production figures during 1946 to see what a terrific impact these shutdowns have had on the national economy. Without them, for instance, there would not have been the slightest excuse for extending for another year the totalitarian controls of the Office of Price Administration.

Besides the immediate strangling effect on the national economy of these industry-wide shutdowns, collective bargaining on that scale has other serious effects. It allows less and less scope for individual plant or employer deviations from the industry pattern to meet special conditions. This was shown up strongly in the steel negotiations, where all plants had to accept the "Big Steel" formula in early 1946 "or else." The "or else" kept many plants shut down for weeks after the strike supposedly was settled. It appears probable that industry-wide bargaining will strengthen the already frightening trend toward concentration of industry in a few giant corporations. Certainly it has a tendency to freeze out completely the marginal producer.

The long-run effect of industry-wide bargaining on the unions may be equally bad, involving more and more concentration of union power and authority in a few hands at the top and less and less real autonomy and bargaining power in the membership at the local level. If the experience of the United Mine Workers, where employers and not the union took the initiative in bringing about industry-wide bargaining, is any guide, the ultimate effect on the union will be to weaken rather than strengthen democratic processes. Lewis is about as complete a czar in his union as exists in the labor movement.

Leads to possible abuses

I do not believe either employer or union groups are generally awake to this problem, yet I am convinced that both have the most vital stake in its proper solution. The fact is that in a modern, highly integrated industrial economy, no government that expects to remain a government can tolerate industry-wide stoppages that threaten to strangle the nation's economy and endanger public health. Government

must act; and the continued reliance upon executive action unguided and unrestrained by law is one of the most serious threats to freedom that we face. Government must, in such an emergency, seize and operate the shutdown facilities, either bribing or coercing the workers into returning to their jobs. In the rail and coal strikes of 1946 we saw two ways in which this method of solution leads to great abuses.

In the rail strike, the President singled out the leaders of two brotherhoods for the most vitriolic attack any President in recent years has made on any economic-group leaders. He made no conciliatory gestures, but threatened to use the Army to break the strike, and finally did break it by the weight of his office, with the brotherhoods accepting his surrender terms. Regardless of the wisdom of that strike, it is a fact that the two brotherhoods involved were clearly within their legal rights. They had bargained in good faith for many months. They had gone through all the lengthy procedures of the Railway Labor Act, and they were actually on strike for just two days.

On the other hand, in his few weeks of meetings with the coal operators, Mr. Lewis did not even pretend to negotiate as any reasonable person would understand the term. His coal miners were out on strike, not for two days, but for eight weeks. Yet in his case the President, through Secretary Krug, first seized the coal mines and then negotiated a contract (which the employers were compelled to accept in order to regain control of their properties) which gave Mr. Lewis virtually everything he had demanded, including a royalty of five cents a ton on coal to go into a "welfare fund" which violated the administration's own wage stabilization formula; unionization of mine foremen; and application of Federal safety recommendations to the

mines—a proposal that had been turned down by Congress. After signing the contract and before his miners returned to work, Mr. Lewis had his picture taken at the White House shaking hands with the President.

One has only to consider how this kind of gross favoritism might work with an Executive aligned with a particular group of employers or union leaders to see clearly the grave danger to both a free labor movement and a private enterprise economy, involved in this issue. Large segments of our economy could be socialized, in either the fascist or the communist pattern, by a President leaning in that direction and either forced or permitted to solve this problem solely by executive action.

Proposed solutions

The administration proposed two solutions to this problem in the Seventy-ninth Congress, both labeled "temporary." One was President Truman's proposal for emergency fact-finding boards, made in December 1945, which the Congress buried in committee after studying the record of such boards in the General Motors, oil, and steel cases. The other was the President's proposal during the rail and coal strikes for emergency legislation giving him authority to seize strikebound industries, fix compensation of both workers and owners, and compel workers to produce, either by criminal action or by drafting them into the Army. This extraordinary measure actually passed the House by an overwhelming vote in the midst of the crisis, but was thoroughly emasculated in the Senate and died in the House Rules Committee.

Other tentative solutions advanced include compulsory arbitration, application in some way of the antitrust laws to such negotiations, and a prohibition of bargaining in units larger than individual plant or employer units. None

of these is very satisfactory, and drafting any of them into workable legislation would be a terrific job. There will have to be plenty of committee hearings and study before any solution can be devised. But unless the Congress does meet this problem head-on, we are in for a continuing series of crises of ever increasing severity.

SELF-RESTRAINT PREFERABLE

It would be far better if these current problems in labor relations could be cured without legislation, which inevitably restricts the freedom of action of individuals and groups, and, however carefully drawn, may open the way to abuses. Self-restraint in the exercise of our rights and freedoms is always preferable in a democracy to the kind of rigid restraint which becomes necessary when we have to write the limits to freedom into the law. Those limits, of course, are where the exercise of the freedom of one group or individual seriously curtails the freedoms of many others.

It would have been better, for instance, had the abuses of injunctions in labor disputes not required the drastic limitations on the injunctive process written into the Norris-La Guardia Act, because consequences certainly not foreseen or desired by its authors have flowed from that act. It would have been better if the dogged opposition of some employers to the free organization of their employees had not finally required passage of the Wagner Act, which certainly has had results going far beyond its initial purpose of merely safeguarding the employees' right to organize and bargain collectively.

Similarly, it would be better now if the rank and file and leaders of organized labor would recognize that responsibilities to the public and to individual freedom go hand in hand with

the growing power they wield, and would set their own reasonable limits on the exercise of that power; because there is always the chance that restraints imposed by law may go too far.

SELF-RESTRAINT UNLIKELY

Unfortunately, there is not the slightest indication at present that any such self-discipline is developing or is in prospect.

There are two reasons for the apparent blindness of labor leaders in the face of overwhelming public reaction against abuses which have developed. One is that unions in the past thirteen years, with considerable support from the Federal Government, have quadrupled their membership. There just isn't enough sound, mature, and courageous leadership in the labor movement to go around, and the mushroom growth has been a bonanza for Communists and racketeers, who have moved in and are entrenched in many locals and some internationals.

The other reason for the intransigent attitude of many labor leaders is that for some fourteen years they have had things pretty much their own way. Leaders who made the wildest demands and were most ruthless in using their economic power won the biggest dividends in terms of closed-shop contracts, dues checkoff, and wage increases. Those who tried to counsel moderation did not last long as leaders. Human nature being what it is, it is folly to expect the leaders of labor to abandon their present attitudes and their violent opposition to any and all legislation seeking to meet these problems, as long as that position continues to pay off in terms of increased power and profits.

It is to be hoped, however, that the Eightieth Congress will convene with such a strong mandate from the people on this issue that it will go about the

problem seriously and studiously, and not, as in the recent past, be compelled to wait until we are in the midst of pub-

lic crisis before legislating. Much better legislation will result if that is the case.

Honorable Joseph H. Ball is United States Senator, Republican, from Minnesota. He is a journalist and political writer, having been connected with the Minneapolis Journal and the St. Paul Pioneer Press and Dispatch.

A Reading List on Labor and the Public

By HELEN BAKER

ECONOMIC ISSUES AFFECTING THE PUBLIC

American Economic Association. *Papers and Proceedings of the Fifty-fourth Annual Meeting*, 1941. (*American Economic Review*, March 1942, Supplement.) "Wage Policies of Trade Unions," by John T. Dunlop, pp. 290-301; "Discussion," by Solomon Barkin, pp. 305-306; "Public Policy Toward Restraints of Trade by Labor Unions: An Economic Appraisal," by Corwin D. Edwards, pp. 432-48; "A Critique of Mr. Arnold's Proposed Antilabor Amendments to the Antitrust Laws," by Edwin E. Witte, pp. 449-59; "Discussion," pp. 476-86.

The paper on union wage policies deals to some extent with restraints of trade; the other papers almost wholly with the impact of union policies on the general economic welfare.

Daily Report of Labor-Management Problems, No. 25, February 4, 1946, pp. B-1-B-6. "Main issue in current wage fight centers around advance in productivity during war."

Gives conflicting points of view as to the change in labor productivity during the war, and describes the program of the United States Bureau of Labor Statistics designed to provide productivity indexes for many industries.

Dunlop, John T. *Wage Determination Under Trade Unions*. New York: Macmillan Company, 1944. 231 pp.

A "tentative reconnaissance" of that part of collective bargaining which deals with the price of labor services, and of the effect of wages upon other prices.

Evans, W. D. *Recent Productivity Trends and Their Implications*; speech at annual meeting of American Statistical Association, January 25, 1946. United States Department of Labor, Bureau of Labor Statistics. 18 pp. mimeo.

A discussion of the difficulties involved in the measurement of productivity, recent changes in productivity, and the implications of these changes in respect to employment, standards of living, and international trade. (Special releases of the Bureau of Labor Statistics give data with which this talk was concerned, and should be secured by anyone seeking information on labor productivity.)

Fabricant, Solomon, Allen W. Rucker, W. D. Evans, and Andrew T. Court. *Measuring Labor's Productivity*. New York: National Industrial Conference Board, Inc., Studies in Business Policy, No. 15, 1946. 20 pp.

A summary of addresses dealing with the measurement of labor productivity and some attempts to determine productivity in the prewar, war, and post-war periods.

Gomberg, William L. "Union Interest in Engineering Techniques," *Harvard Business Review*, Spring, 1946, pp. 356-65.

Presents the union's case for the right to participate in engineering techniques affecting wages and working conditions. States that without this "equity" approach "the impairment of efficiency on the part of workers will be far greater than any loss suffered at the level of management."

Lester, Richard A. "Effectiveness of Factory Labor: South-North Comparisons," *Journal of Political Economy*, February 1946, pp. 60-75.

A report of experience of interregional concerns relative to labor efficiency in plants in the North and the South concludes that "A large section of southern labor . . . is equal in efficiency or productivity to northern labor. . . ."

Millis, Harry A., and Royal E. Montgomery. *Labor's Progress and Some*

Basic Labor Problems. (Vol. I, Economics of Labor.) New York: McGraw-Hill Book Company, Inc., 1938. 584 pp.

A study of the economic problems involved in securing increased real earnings and a higher standard of living for workers. Includes discussion of governmental regulation of wages and hours of work through 1937.

Monthly Labor Review, April 1946. "Wage Policy, and the Role of Fact-Finding Boards," pp. 537-49.

An analysis of the procedures and recommendations of six fact-finding boards which functioned in important labor disputes between November 1945 and January 1946.

Slichter, Sumner H. *Union Policies and Industrial Management.* Washington, D. C.: Brookings Institution, 1941. 597 pp.

A comprehensive study of union rules and policies with particular consideration of their effect upon industrial management, but also with consideration for their effect upon employment opportunities and other questions of public concern.

INTRA- AND INTERUNION RELATIONS AND THE PUBLIC

American Civil Liberties Union. *Democracy in Trade Unions.* New York, November 1943. 86 pp.

—*Supplement.* November 1943. 23 pp.

A report of the Committee on Trade Union Democracy set up by the American Civil Liberties Union "to study trade union practice and to suggest remedies for undemocratic procedures which denied to trade union members what may fairly be called their civil rights." The supplement quotes desirable provisions from trade union by-laws and gives references to court cases referred to in the report.

American Economic Association. *Papers and Proceedings of the Fifty-fourth Annual Meeting, 1941.* *American Eco-*

nomic Review, March 1942, Supplement.) "Protecting Members' Rights Within the Union," by John P. Troxell, pp. 460-75; "Discussion," pp. 486-89.

An examination of the internal workings of union government with respect to the protection of members' rights.

Dubliner, Howard. "Legislation Outlawing Racial Discrimination in Employment," *Lawyers Guild Review*, March-April 1945, pp. 101-109.

Principally a summary of proposed legislation, this article also considers briefly the forms and the extent of discriminatory employment practices.

Jaffee, Louis L. "Inter-union Disputes in Search of a Forum," *Yale Law Journal*, January 1940, pp. 424-60.

Weights the role of the American Federation of Labor, the courts, and labor boards as agencies for the settlement of jurisdictional disputes and as preferable to action under anti-trust laws.

Murray, Philip. "Labor and Responsibility," *The Virginia Quarterly Review*, Spring, 1940, pp. 267-78.

Contends that "labor responsibility is the by-product of the policies and attitudes of employers."

Newman, Ralph A. "The Closed Union and the Right to Work," *Columbia Law Review*, January 1943, pp. 42-57.

Points out the inadequacies of protection of right to work under closed-shop contracts and suggests remedies.

Seidman, Joel. *Union Rights and Union Duties.* New York: Harcourt, Brace and Company, 1943. 238 pp.

A comprehensive study of the responsibility of unions to their members, employers, and the public, and the necessity for the co-operation of the three groups in helping unions to achieve responsibility.

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PAPERS PRESENTED BEFORE

THE PACIFIC SOUTHWEST
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IN CO-OPERATION WITH THE
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CALIFORNIA LOOKS AHEAD

Edited by
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FOREWORD

CALIFORNIA, long possessor of a fabulous reputation, faces one of the most difficult problems of postwar reconstruction to be found in any state in the Union. Its rapid wartime industrialization laid heavy emphasis on aircraft manufacturing and shipbuilding, and the layoffs in these industries have been drastic. One competent student predicts that California will soon have 1,000,000 unemployed.

The problems of the West Coast States are further intensified by the unending stream of migrants from other parts of the country. In the weeks following V-E Day a great exodus took place, and it was freely predicted that California's war-inflated population of 9,000,000 would be materially reduced. By early 1946, however, the in-movement of people was again abnormally large. During the month of March alone, nearly 400,000 persons entered the state *by automobile*. No records are kept of those arriving by other means of transportation.

So California looks ahead with mixed emotions and many troubles. The Pacific Southwest Academy, for its Annual Meeting, decided to direct its attention to the prospects of the state. The Academy enlisted the cosponsorship of the Southern California Economic Association, and then arranged the sessions at which were delivered the papers included in this Supplement. The joint meeting was held on June 15, 1946, on the campus of Occidental College, Los Angeles.

Although these papers do not constitute a comprehensive survey of California's future, they do touch on some of the most pressing problems of the state. The panel on "Social Prospects" was arranged by Anne M. Mumford, of the Haynes Foundation. That on "Political Prospects" was planned by W. W. Mather, of Chaffey College. The one on "Economic Prospects" was set up by Morrison Handsaker, now of Rutgers University. The undersigned served as general program chairman.

DEAN E. McHENRY

California in Perspective

By ROCKWELL D. HUNT

CALIFORNIA is a land of superlatives. She claims that her big trees are the oldest and largest living things on earth; Mount Whitney is the highest mountain in the United States, barring Alaska, from whose summit one may look down upon Death Valley, the lowest place in the country; with the exception of "The Giant World of Texas," California has the greatest area of any state in the American Union. Within her ample boundaries may be found every kind of soil and every variety of climate in temperate and subtropical zones. For years California boasted the largest production of petroleum, then headed the Nation as airplane producer; for numerous horticultural crops, including peaches, prunes, oranges, and other products of the soil, she stands at the top. She has been called a "Geologic Wonderland," a "Territorial Paradise," the "Golden State," "Empire State of the Pacific," and "Land of Heart's Desire."

Before the coming of white people, California was sparsely populated by many tribal bands of Indians of varying degrees of culture, who lived in extremely simple homes grouped into crude little villages, or rancherias. As a rule, these Indians, often erroneously called "Diggers," were far from warlike, most of them knowing nothing of the "fierce joy of the Dakota hunter." Their mores and their religion were most primitive. Their contact with the whites in uncounted instances brought tragic results. Nevertheless, the California Indians of today are under the protecting guardianship of the United States Government; their population is increasing; their opportunities for advancement have been greatly enhanced;

many of them are useful members of society.

UNDER SPAIN AND MEXICO

California long remained concealed from European enlightenment and from the Oriental culture—this despite the fact that it was but fifty years after Columbus' great discovery that Cabrillo entered beautiful San Diego Bay, naming it San Miguel, and raised the flag of Spain. California has been called the child of Spain.

Spain's threefold plan of occupation involved religious, military, and civil factors, resulting, after extraordinarily long delay, in the Franciscan missions, the presidios, and the pueblos. San Francisco took its beginnings from the presidio and the mission of similar name, founded in 1776. Los Angeles was the second California pueblo, founded in 1781. In the meantime, the English influence had been begun with the activities of Francis Drake, as early as 1579.

After preliminary contact, the Russians founded a colony in 1812 some sixty miles north of San Francisco. Their presence occasioned much uneasiness to the Spanish authorities, not without good reason; but after three decades the Russians sailed peacefully away.

California was an outlying province, or territory, of New Spain, or Mexico. The hampering conditions and limitations imposed by remoteness, by extreme backwardness in transportation and communication, and by Spain's difficulties in faraway Europe rendered anything approaching modern efficiency in administration quite impossible. Nevertheless, heroic efforts were made un-

der such competent leaders as José de Gálvez, Antonio Bucareli, and Diego Borica.

Revolt against the rule of Spain in the New World rapidly developed into a series of revolutions for independence. Mexico finally won her freedom; then, following a slight flurry of imperial pretense, the Republic of Mexico was established and a new regime inaugurated, with Alta California its northernmost territory. General administration was vested in a governor, while prefects held nominal sway over minor divisions. This period has come to be known as the "Arcadian Days," a glamorous age, with its proudly mounted rancheros, great herds of cattle and bands of horses, and a spirit of *fiesta* prevailing among the care-free people, almost completely isolated from the rest of the civilized world.

THE COMING OF THE AMERICANS

As California's ample resources—mild climate, fertile soil, great rivers, and splendid harbors—became known abroad, Yankee captains brought their ships to her shores; bold trappers beat paths along her fur-bearing streams; homeseekers spied out the land and its irresistible attractions. These resourceful, aggressive pioneers were alert to observe and to report in "the States" what they beheld in distant California. The Mexican regime was scarcely well established when the peaceful penetration of Americans began. Also there were Frenchmen, Englishmen, and Russians; but because of geographic location, superior numbers, and more dynamic character, Americans early took the lead among foreigners in the territory.

Peaceful penetration, national policy, and finally military operations conspired, not too harmoniously, to bring about the American acquisition of Cali-

fornia. At this very time, in 1946, Californians are celebrating the centennial of that highly significant event, the first of a series of centenaries which will culminate in the commemoration of California's admission into the American Union, September 9, 1850.

Almost at the moment when the coveted prize became an integral part of the United States by virtue of the treaty of Guadalupe Hidalgo, gold was discovered at Coloma by James Marshall. Within two years thereafter 100,000 people had found their way into the new land of El Dorado.

CALIFORNIA AS A STATE

Persistent and clamorous demands for government were finally heeded, the Monterey constitutional convention did its work, and after the momentous and protracted struggle in Congress, California was admitted as the thirty-first state—the sixteenth free state. Swiftly changing conditions brought one of the severest tests for democracy in our entire national annals. Where the regular courts failed, the vigilantes, including most respected and influential men of undoubted patriotism, took measures into their own hands. "Squatterism" rendered doubly difficult the situation of the bewildered and often victimized rancheros of the old regime.

The development of means of transportation since the middle of the nineteenth century, in which California has played a most significant part, has been nothing less than a modern miracle—from stagecoach to jet plane!

No true perspective of California is possible without specific reference to the many-sided Oriental problem. Within a few years after the gold discovery, more than 10,000 Chinese had landed in San Francisco; by 1876 there were 116,000 in the state. The acute situation finally gaining national recog-

nition, the first exclusion act was passed by Congress in 1882. Other acts followed; the exclusion policy was reaffirmed. Meanwhile, the Japanese question emerged. In 1900, 12,500 Japanese came to California; by 1920 more than 111,000 were reported in the United States, most of them in California. The feeling of hostility among whites toward Japanese immigration was general. Finally, in 1924, after several state restrictive enactments, the immigration policy of the Nation was expressed in an act definitely excluding persons not eligible to American citizenship.

To complete the immigration picture, allusion must be made to the Filipinos and the Mexican nationals. And not least among racial factors, outside of immigration, must be considered the problem of the American Negro.

The imposing contribution of California to the Union cause during the Civil War bulks large in the history of the state and of the Nation. Her unequivocal expressions of loyalty constituted a strong moral support; her grateful stream of gold in a time of dire national peril proved to be a tower of strength to the distressed national finance. Even the barest outline of the more recent, yet highly significant, history of California cannot here be attempted.

CHANGING PATTERN OF SOVEREIGNTY

In all, eight different flags have waved over California or some part of California; though it would be grossly inaccurate to attribute equal historic significance to each of these. The national ensigns that have been of greatest importance are, of course, those of Spain, Mexico, and the United States.

But to complete the list there should be added the British flag, raised by Francis Drake over New Albion in

1579; the Russian flag, which waved, somewhat threateningly, over Fort Ross and Bodega for approximately three decades, preceding the peaceful departure of the Russians in 1841; the flag of insurgents from Buenos Aires, who in reality were little more than piratical adventurers, in 1818; the flag of the precarious, short-lived Mexican Empire under Agustín de Iturbide, in 1822, before the final establishment of the Republic of Mexico; and the Bear Flag, raised at Sonoma on June 14, 1846 by a party of Americans known as the Bear Men, which within a month was happily replaced by the American Stars and Stripes.

MINERVA OR JANUS?

California has frequently been referred to as the Minerva State; and there is particular appropriateness to the designation. The foreground figure of the Great Seal, which was adopted in 1849, represents the goddess Minerva, having sprung full-grown, clad in complete armor, from the brain of Jupiter. So the vigorous Commonwealth of California, full-orbed from the beginning, stood knocking at the door of the national Congress for admission into the Union, not having passed through the preparatory status of an organized Territory. Minerva was the goddess of wisdom, offering glory and renown in war, and giving her own name in the Greek to the immortal city of Athens.

Because of the pivotal position of the new state when she sought admission, however, and likewise as she now celebrates with elaborate ceremony her centenary, it may not be amiss to liken California to another ancient deity—Janus, the god of gates and doors, commonly represented with two heads looking two ways, forward and backward. As the "Empire State of the Pacific" assumes a new and even larger role in

the affairs of mankind, Longfellow's words are brought to mind:

Janus am I: oldest of Potentates:
Forward I look, and backward, and below
I count, as god of avenues and gates,
The years that through my portals come
and go.

Janus looked at the same time both ways—outward and inward. So California does well, while contemplating with admiring eye the charms with which Nature has endowed her, her romantic and colorful history, and her expanding resources in the ample fields of modern industry and civilization, to give good heed to her inner life, her world of reflective thought, and the "unfathomable mystery that lies within." "The extent of your outlook," wrote a thoughtful educator,¹ "will be proportional to the depth of your inlook." In these words we recognize a truth that has particular applicability to our own Januslike state, as well as to the individual student or citizen.

AMERICAN INFLUENCE DOMINANT

As California enters upon a series of celebrations commemorating a full century of American history, the thought comes to us with startling suddenness that the American period has already far exceeded in duration the combined Spanish and Mexican periods of actual occupancy. To be sure, Cabrillo's discovery occurred in 1542; but it was not until more than two and a quarter centuries later that Spain effected a permanent settlement, in 1769. Scarcely more than a half-century passed, following the founding of the first mission and presidio, at San Diego, when the Spanish regime was succeeded by the era under Mexican rule, which endured only half as long as the Spanish period. In the meantime, American influence had become marked even before 1846,

¹ John H. Phillips.

which has been called "the year of decision."

Not alone in length of years, but even more markedly in the totality of life in the on-flowing current of universal history has the American regime surpassed the previous periods in the life of California—a proposition that might be readily amplified and abundantly illustrated.

I submit, therefore, that while giving due weight to the Spanish and Mexican periods, true perspective demands that the historian of California must henceforth devote major attention to the American regime, already of more than a century's duration. The Hispanic heritage is rich and beautiful—it should always be cherished; but the truly focal point was not reached until the American ideal of "manifest destiny" decreed for the United States continent-wide boundaries, until Marshall's gold discovery transformed California into a magnet that attracted men from the ends of the earth, until California was admitted into the American Union, thirty-first in our galaxy of stars.

This is not all. California is still young—"California looks ahead." The pioneer fathers pointed the way—they blazed trails; but a band of hardy pioneers will not suffice for our tomorrow. We, their fortunate successors, must build great highways and construct strong bridgeheads for a glorious future.

PROPHECY FULFILLED

There were those a hundred years ago who even then caught inspired glimpses of California's greatening future. Prophetic words by a writer in California's first newspaper (*The Californian*) of August 29, 1846 may be quoted here. Said the writer:

The destiny of California is fixed—she is to become a free and independent state—

a member of the North American Confederacy. She is no longer to be subject to a foreign arbitrary power, to domestic revolutions or military rule. She is to make her own laws, manage her own resources, and found those institutions in which her children are to find a happy home.

. . . Golden harvests will wave over hills and valleys, where now only the briar and bramble are seen; and where only the howl of the wolf is heard, the gloomy silence of the wild cascade will be broken by the thunder of factories, where art and industry will roll out upon the public their richest products. Commerce will enliven every bay, and penetrate into the gorges of the distant mountains.

This may seem too flattering a picture, but it is no more than what is seen and felt through the length and breadth of the United States. The same enterprise and prosperity which prevails there avails this country. The same spirit which has made the farmer and mechanic wealthy there, will make them wealthy here. The same spirit that has carried the advantages of an education to every child there, will carry the advantages to every child here. The same spirit that has founded asylums there for the infirm, the deaf and dumb, the houseless widow and orphan, will found the same beneficent institutions here. Such is the destiny of California, such the patrimony which the aged, now descending into their graves, bequeath to their children. Who would dread such a vista? Who bar his offspring from such a heritage?

That these eloquent words, uttered four full years before admission to statehood, were truly prophetic is clearly self-evident. California is a free member of the American Union; she is no longer "subject to a foreign arbitrary power, to domestic revolutions or military rule." She makes her own laws, manages her own resources, and founds institutions in which her children "find a happy home." Instead of briar and bramble, golden harvests "wave over hills and valleys."

Where a century ago were to be found a few scattered villages of degraded Indians, scores of flourishing cities and towns support their teeming, enlightened population.

THE FORWARD LOOK

And now again, in 1946, "California looks ahead." But it is impossible to build wisely and well without viewing California in true perspective, noting the background and the foreground with particular care. If we would build for the future we must know the accomplishments and the failures of the past; the fruits of the past must be brought home for present use. Past accomplishments, marvelous as they have been, are but an earnest of what is yet to come.

Many a decree of a revised "manifest destiny" is still unfulfilled. California has played a noteworthy part in the history of the Nation; she must prepare herself for a far greater part in the affairs of the Nation and the world. Standing on the firm vantage ground of the past, it is possible to forecast with some assurance the larger future. But there are stern conditions to be met; there are imminent perils to be avoided.

Higher economic standards must not be purchased at the price of basic civil liberties; there must be assiduous promotion of the cultural and the spiritual in life as well as of the material and the utilitarian; temporary gains at the expense of underlying moral principle must be rigorously eschewed; "shredded men" may be financially successful and politically "sound," but the call is for full-orbed men, educated in and motivated by a true humanism; in the citizenry of tomorrow there must be inculcated the higher loyalty, with opinions and convictions that are not for sale; the very complexity and turbulence of our contemporary life demand reori-

entation, with eye fixed upon a guiding polestar, constant and immovable. "Where there is no vision the people perish." "Righteousness exalteth a nation: but sin is a reproach to any people."

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Culture and Society in Southern California

By CAREY MCWILLIAMS

CERTAINLY the most obvious thing to be said about the culture and society of southern California is that both are products of migration. Marion Clawson has graphically described what it means to be a Californian by the simple statement that in 1945 two out of every three people in the state had been born in some other state or nation—a fact of overwhelming social and cultural significance. Unquestionably migration provides a real key to an understanding of the riddles and paradoxes of this state. Yet as soon as this statement is made, one is faced with the realization that to measure the impact of migration on southern California, one would need a breakdown for every set of statistics on migration to California—one set for the north, another for the south. For a sharp social and cultural cleavage divides the state at the Tehachapi line, a cleavage which is reflected with remarkable clarity in the folkways of the people.

SELECTIVE FACTORS IN DESTINATION

Migration to southern California really dates from about 1880; prior to that date, it should properly be characterized as infiltration. Therefore, the first great wave of migration to this region took place thirty years after the gold rush, and was made up of migrants who came from eastern and middle western regions that were thirty years more mature than the regions from which forty-niners set forth for the gold fields. As Charles Fletcher Lummis once said, the gold-rush influx represented sheer adventure, while the first great influx to southern California represented reasoned migration. The first was of men; the second of families.

Gold lured the one group; oranges and climate the other. Because of the time lag, migration has had a somewhat different impact on the two regions. For example, San Francisco had already developed features of its own, as a city, when the invasion of mass production and uniform Federal patterns began.

The motion picture industry has drawn a special category of migrants to this region, important both numerically and culturally, which is not represented to the slightest degree in northern California. The impact of this particular Broadway-to-Hollywood migration is apparent, among other respects, in the special coloration it has given liberal political thought in this region.

In other respects, also, the effect of migration has been both quantitatively and qualitatively different in the south. Between 1900 and 1940 the population of southern California increased 1,107 per cent; the population of Los Angeles, 1,537 per cent; while the population of San Francisco increased 172 per cent. The migration of the 1920's, which swept 1,272,037 people into Los Angeles County alone, represented a larger gain for the decade, for this one county, than was shown by the state of Michigan, Texas, or Illinois.

CHARACTERISTICS OF MIGRANTS

In the main, I think it can be said that migration to southern California has tended to reverse the process of western settlement. The first wave of migration, from 1880 to 1900, seems to have been made up of moderately well-to-do people, many from urban areas and many from the eastern seaboard. The second great wave, that from 1900 to 1920, was made up for the most part of middle-class people of moderate cir-

cumstances, highly pietistic, many from rural areas in the Middle West. The third wave, that of 1920 to 1940, while extremely variegated, was predominantly of lower middle-class elements, with the intermountain and southwestern states being heavily represented for the first time. The fourth wave, that from 1940 to date, seems to have been made up primarily of industrial workers, skilled and semiskilled; but little is known as yet about the states of origin for this migration.

While these periods cannot of course be sharply defined, and the waves of migration were by no means homogeneous, still it can be said that each successive wave has been made up of people less important socially and economically than the one which preceded it, and came from points of origin which gradually shifted nearer the region.

The volume and the velocity of migration, as well as differences in the composition and point of origin of the successive waves of migration, account for the horizontal, island-by-island, distribution of people in the region. Like a stream at full flood, the migration has spilled over, breaking economic, geographical, and political dikes. When the floods have receded, people have been left on the particular island on which they landed. Throughout southern California, social lines do not run across or bisect communities, so much as they encircle and sequester entire communities.

To be sure, the process has not been altogether fortuitous or random. Familiar division-of-labor processes and the usual urban patterning have grouped these clusters in a roughly functional relationship, particularly if the entire region is to be regarded as a single metropolitan aggregate. But to some extent, southern California is still an archipelago of social and ethnic islands, economically interrelated but culturally

somewhat disparate. In the metropolitan area of Los Angeles, however, it is possible to trace a series of communities of interest or group identifications which ramify outward from particular residential areas and crisscross geographically in the most amazing manner.

PROSPECTS OF FUTURE EXPANSION

In writing *Southern California Country*, I ventured the statement that future migration, regardless of the volume, could hardly be expected to have quite the same impact on the region as in the past. Today, a year later, I am not quite so sure; indeed, it is very easy to be tricked by appearances in this region. With the lifting of gas rationing in August 1945, the press of southern California carried stories with such headlines as "Migrant Workers Flock Homeward"—August 16, 1945; and "Exodus East Continues"—August 26, 1945. One could detect in these stories a note of quiet jubilation as the older residents demonstrated a familiar willingness to speed the parting guest. Then, by December 1945, the by-now equally familiar backward movement had been set in motion and the headlines read: "State Lures Record Influx of Visitors"—December 18, 1945; and "Swelling Migrant Tide Poses Perplexing Issues"—December 20, 1945. With 300,000 migrants having entered the state in the first three months of this year, it is apparent that the leveling-off and integration process has not yet begun.

In fact, one can note in the news of the day the beginnings of further patterns of dynamic expansion. "Rural Industrialism Developing at Pomona," reads a headline in the *Los Angeles Times* of May 12, 1946, with the sub-head: "Mixture of Factory Smoke and Orange Blossom Scent Makes Citizens a Trifle Giddy." Already industry has

begun to invade the citrus belt, a movement particularly noticeable in the flight of small garment plants into the area in quest of unorganized Mexican labor. An important process of social change has thus been set in motion in one of the more stable sections of the region. Speaking in Los Angeles on June 12, 1946, Mr. W. R. Jeffers, in justifying his prediction of a rapid expansion of the synthetic rubber industry, significantly observed that this region "has a climate to lure the necessary workers."

It would seem, therefore, that the wave of the future is likely to be made up of unskilled workers from rural and semirural areas, the same general type of workers that were lured into Akron two decades ago from the hills of West Virginia and Kentucky and that are still stereotyped in Akron as "hilligans," "crickets," and "snakes."

Changes in the national economy will probably determine the point of origin for this next migration. Perhaps a clue is provided by the impending mechanization of the cotton industry in the South. Just as the migration of Negroes after the First World War to middle western industrial centers seems to have anticipated the movement of so-called "poor whites" to the same areas, so the wartime influx of Negroes to the west coast may herald the arrival of poor whites from a constantly receding Deep South. The rapid tempo of industrialization here, by comparison with the South, might encourage this tendency. In the growth of recent years of a series of communities around the periphery of Los Angeles, particularly to the south and southwest, made up of former rural and semirural residents who retain a distinctly rural coloration, one may detect a pattern that may be heavily emphasized in the immediate future.

Current predictions of a California

population of 20,000,000 within the next two or three decades would seem not altogether out of line with prior trends and present indications. Of this expected increase, southern California will receive its share, with perhaps a population in the region of 10,000,000 at the end of the period, including 6,000,000 in Los Angeles County. In any case, the ratio of persons born outside the state to native sons will not change in the immediate future.

SOCIAL IMPLICATIONS

The social implications are obvious. As Clawson writes:

If all the migrants came from a single source, or if all had a single cultural background, and if the physical environment into which they came were not strongly different from the environment they left, probably a large number of the customs and traditions of the area of origin would be transplanted to the new area. However, the very diversity of California's migration, as well as the fact that the physical environment in the state differs from that in the areas of origin, has led to some abandonment of the old forms and traditions and to the evolution of certain new ones.

I would merely add that this statement is even more true when applied to southern California than when applied to the rest of the state.

In the usual migration movement, the resident majority gradually absorbs or assimilates the newcomers. But in southern California the process has never been quite so simple. Not only has the volume of migration been consistently large, but the tidal waves have occurred at sufficiently close intervals so that the process of adjustment has been constantly interrupted. Furthermore, since migrants constitute a continually perpetuated majority, which may be divided into categories based on length of residence, social and

cultural background, point of origin, and so forth, where is one to look for the dominant assimilating element? A lack of stability and integration will thus continue to characterize the culture and society of southern California for many years.

Such a situation makes for an uninterrupted conflict between the migrant of yesterday and the migrant of today. In particular, the old residents show a chronic tendency to rebel against the newcomers. A character in Lawrence Rising's interesting novel, *Proud Flesh*, written in 1924, echoes this rebellious note:

The fact is there are too many damn outsiders—people who just fill up the town, declaring themselves "Californians," who form forums and attempt to make the state as dull as those insulated mid-western states they come from. They want to improve, rename, emasculate; and they are very near doing it. California isn't America; it never wanted to become a part of the Union; and I wish to God it hadn't.

Unable to cope with the flux and turmoil of migration, unable to achieve the social recognition which would normally be accorded them, our upper-upper residents have long since retreated to their pleasant reservations in Santa Barbara and Pasadena, whence they hurl imprecations, now and again, at the newcomers.

FUTURE TRENDS

The social, ethnic, and cultural cleavages so noticeable in the past will probably be no less noticeable in the immediate future. The Negro population of Los Angeles may very likely approximate the size of the Negro community of Chicago in the next two decades. Our resident Mexican-American population is not only large, but during the last decade has begun to impinge on the larger community in a number of

significant respects. Sharply on the increase since the war, racial tensions remain as explosive as ever, with little improvement of a basic character to be noted.

The Los Angeles of 1946, however, is not the Los Angeles of 1920. As a city, it has more elements of stability now than then; it is rapidly acquiring an industrial base; it now has some shock-absorbing and integrative institutions; it has a strong trade-union movement; and it is more aware of the nature of its problems. In the past, the socio-political mood of the region has alternated between roseate expectations and social desperation; between booster optimism and utopian politics. On prior occasions, when the bubble has burst, spontaneous mass protest, utopian in character and unrelated to a powerful trade-union movement, has surged to momentary power, only to be dissipated by some happily timed dispensation or reprieve. But nowadays, industrialization has tied the economy of the region more tightly than ever to that of the Nation. The mass protest of the future, unlike the mass protest of the thirties, is not likely to be spontaneous, utopian, and confused, but will be of an entirely different order and of much greater significance.

California, a frontier at the end of the frontier, has long been a vast catch basin at the right hand of the continent. Elsewhere the imported pattern has been modified; here the modified pattern is itself transformed. Not only is the environment one toward which it is impossible to remain indifferent, with its own novelties and compulsions, but the social dynamics are unique. Scarcely a single significant vestige of Indian, Spanish, or Chinese influence survives in the region today, and the early New England and later Middle Western tracings have largely vanished. While economic rather than cultural or geographic

determinants will increasingly shape the social pattern that is emerging, the pattern itself will show significant variations from the national norm; for a creative potential does exist in the unique combination of forces that has long been operative in southern California.

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Place of Central Valley in the Social Prospect of Southern California

By PAUL S. TAYLOR

MY THESIS is that the quality of the future society of southern California is being decided in substantial degree, at the present time, by or through people who live outside its boundaries. Specifically, my subject is the influence exercised over the social prospect by that interior basin of our state called the Great Central Valley of California.¹ My method is to examine two or three significant aspects of the relations of Central Valley to the prospect of southern California.

The Legislature, in biennial convention, determines, by giving or withholding its approval to bills, whether, and on what side, the weight of the state of California shall be thrown into the social issues which confront this southern area. Therefore it seems appropriate to take up first the manner in which Central Valley influences the use of the power of the state to shape solutions to the problems of this area.

BILLS KILLED BY CENTRAL VALLEY

Do assemblymen from Central Valley align themselves on the same side of social issues as assemblymen from southern California? Only those occasions when they disagree need concern us, for only then does external power from the Central Valley take solutions out of southern California's hands and overrule the opinions of its people as to the proper way to solve their problems.

¹ For further discussion of this subject by the author of this paper, see "Territory vs. People," in *Nation*, west coast supplement, Sept. 21, 1946; and Extension of remarks of Hon. Helen Gahagan Douglas in *Congressional Record*, July 31 and Aug. 1, 1946, pp. A4916-17, 4977-78 (daily edition).

For examination I have selected three record votes of the State Assembly at its fifty-sixth session, in 1945.

First is the compulsory health insurance bill proposed by the Governor, which died when the Assembly refused by vote of 38 to 39 to withdraw the measure from committee for consideration on the floor. Extensive public hearings had been held on this measure, and the switch of a single vote would have been sufficient to bring health insurance into the light of public deliberation and a vote. Los Angeles assemblymen voted 20 to 12 in favor of taking up the health bill, and by a smaller margin all southern California was in favor. The Central Valley delegation, however, sealed the fate of the bill by voting overwhelmingly—2 to 12—against taking it out of committee. (See Table 1.)

Second, with somewhat less decisiveness but in similar fashion and with the same effect, Central Valley assemblymen helped to draw the teeth of the Full Employment bill when they declined to permit the state to use its power to *finance* development of natural resources as an instrument in support of a full employment program. (See Table 1.)

Third, Central Valley assemblymen helped to defeat the attempt to establish a Fair Employment Practice Commission. Although lively hearings had been held, and despite the strong favorable vote from southern California, the Assembly failed to give the three-fourths vote required to bring the bill to the floor.

If political opinion in southern California were in agreement with opinion

TABLE 1—VOTE BY AREA ON COMPULSORY HEALTH INSURANCE, STATE FINANCING OF FULL EMPLOYMENT, AND FAIR EMPLOYMENT PRACTICE COMMISSION, CALIFORNIA ASSEMBLY, 1945

Area	Health ^a		Full employment ^b		FEPC ^c	
	Progressive	Conservative	Progressive	Conservative	Progressive	Conservative
CALIFORNIA	38	39	35	38	48	29
Nonmetropolitan	6	25	8	21	14	19
Central Valley	2	12	6	7	6	8
Southern California	2	7	1	9	4	7
Other	2	6	1	5	4	4
Metropolitan	32	14	27	17	34	10
Los Angeles	20	12	20	10	23	7
San Francisco	8	—	6	2	8	—
Alameda County	4	2	1	5	3	3

^a The vote selected to represent health insurance (roll call 73) was on the Governor's health bill (A.B. 800). The vote was on a motion to withdraw the bill from committee to permit action on the floor. Failing to secure a majority on this vote, the bill died in committee. "Progressive" means votes in favor of the bill; "conservative" means votes against it. Three assemblymen did not vote.

^b The vote selected to represent this issue (roll call 57) was on an amendment to weaken the Full Employment bill (A.B. 2136) by declining to permit the state to *finance* natural resource development when needed to secure full employment. "Progressive" means votes for a "strong" bill; "conservative" means votes for a "weak" bill. Seven assemblymen did not vote.

^c With three-fourths vote needed to pass, the Assembly voted not to consider the bill (roll call 65). Three assemblymen did not vote.

Source: Data from voting record of California Legislature, 1945, as shown by California State Chamber of Commerce, "Tabulation of votes upon selected legislative measures by fifty-sixth session of the California legislature, 1945."

in Central Valley that the proper way to deal with the hazards of illness and unemployment and with race discrimination was to kill the bills, my thesis would be without support. But the record says that southern California assemblymen supported all three measures as progressive steps toward solutions, while assemblymen from Central Valley stood with the conservatives to block them.

Southern California, then, must face the fact that conservative opinion predominating in the Central Valley now stands in its way, as a bar to progressive attack on some important social questions.

POLITICAL POWER OF CENTRAL VALLEY

If it is the purpose of southern California to shape its own social prospect,

the necessity for re-examining its relations with Central Valley is even greater than I have thus far suggested. Not only is political opinion in Central Valley more conservative than in southern California, but the voters of California have conferred extraordinary political power on Central Valley. By constitutional amendment passed twenty years ago, they gave 47 per cent of the state senators—virtually half the power of the Senate—to the 18 per cent of the people of the state who live in the Valley (1945). By the same amendment they reduced the representation of southern California, now having more than one-half of the population, to less than one-quarter of the senators. And Los Angeles, now having 39 per cent of the state's population, was given only 2.5 per cent of the state's senators.

(See Table 2.) The opposition of Central Valley in the Assembly is serious enough; in the Senate, it is crushing.

How did this unbalance between representation and population come about? How did it win approval from the people of California? Let us look at the record.

Exactly twenty years ago someone realized that the Legislature had refused during three successive sessions to redistrict the Senate and the Assembly in proportion to population shown by the latest census, as provided in the state constitution of 1879. Urban centers had been growing rapidly in numbers, until in 1920 the three metropolitan counties of Los Angeles, San Francisco, and Alameda together held just over one-half the population of the state. Particularly in Los Angeles, people were becoming restive over the failure of the Legislature to reapportion. Having only 8 senators out of 40, they regarded themselves as underrepresented. Therefore an amendment to the constitution was placed before the voters of the state—Proposition No. 20—designed to accomplish reapportionment of both houses of the Legislature in accord with population.

Simultaneously, an alternative pro-

posal was placed before the electorate—Proposition No. 28. This amendment retained representation in the Assembly according to “population,” but established representation in the Senate according to “territory.” It was given the name “federal plan,” and was sponsored to the voters by one of the distinguished political scientists of the state.

PROMOTION OF THE FEDERAL PLAN

Arguments used to promote the federal plan were various, not always consistent with each other, frequently confusing, frequently designed to appeal to prejudice—and evidently very persuasive in their net effect. It was officially argued by C. C. Teague, a large-scale agricultural operator, that representation by population would

place the great centers of population, comprising but 3 per cent of the state’s area, in complete control of the State Legislature, thus depriving the great rural sections of the state, comprising 97 per cent of the state’s area, of any effective voice in the state lawmaking body . . . and permitting a part of the population [i.e., a majority] to control the entire state, which is an intolerable situation.

Various sections of the press, principally the rural papers, emphasized the

TABLE 2—REPRESENTATION AND POPULATION, BY AREA, CALIFORNIA SENATE, 1945

Area	Senators		Population ^a	
	Number	Per Cent	Number	Per Cent
CALIFORNIA	40	100.0	8,917,500	100
Nonmetropolitan	37	92.0	3,949,500	44
Central Valley	19	47.0	1,616,400	18
Southern California	8	20.0	1,218,700	14
Other	10	25.0	1,114,400	12
Metropolitan	3	8.0	4,968,000	56
Los Angeles	1	2.5	3,483,000	39
San Francisco	1	2.5	750,000	9
Alameda County	1	2.5	735,000	8

^a Population data for 1945 from California State Chamber of Commerce research department, “Estimates of the total population of California counties 1940–46, Economic Survey Series 1945–46, report No. 26.”

corruption of the cities and deplored the possibility of domination of the Legislature by them. The Central Valley *Bakersfield Californian* appealed to the local labor element to withstand the influence of the county of Los Angeles "in the framing of laws for the entire state."

In 1926 the *Los Angeles Times*, like the President of the Los Angeles Chamber of Commerce, fought against the federal plan; but by 1928 it had switched its position, along with the Chamber of Commerce. Largely on technical grounds of the procedural difficulty of restoring apportionment by population, the *Times* counseled its readers to accept the federal plan which the voters of the county, in accordance with the advice of the *Times*, had rejected in 1926. In 1940 the *Times* reiterated its support of the federal plan. On January 22, 1940 it said:

California's Senate is dominated by representatives of her agricultural areas; the Assembly by men from urban and industrial communities. This establishes a balance for the compromise of conflicting interests for which, in the light of experience, it would be hard to find a satisfactory substitute.

One of the purposes of this paper is to find out, by examining the record of the 1945 legislature on a program to deal with social problems, how and at what points that "balance for the compromise of conflicting interests" is struck.

CALIFORNIA'S CHOICE

Notwithstanding that people from the metropolitan centers were in the majority, the voters of the state chose the federal plan in open election, first in 1926 and again in 1928. By their choice they accomplished these results:

First, they reduced the representation of Los Angeles, San Francisco, and

Alameda counties, with 56 per cent of the state's population, from 19 senators to 3 (population figures 1945).

Second, they raised representation of Central Valley, with only 18 per cent of the state's population, to 19 senators, giving Central Valley practically one-half the entire membership of the Senate.

Third, they laid the foundation for sharp and enduring opposition between the two houses of the Legislature. Accepting at face value the argument by supporters of the federal plan for "checks and balances," they put them into effect, and not mildly. Each nonmetropolitan senator represents on the average 107,000 people (1945); each metropolitan senator represents 1,656,000 people. Thus each nonmetropolitan person, by reason of his place of residence, was given 16 times as much power in the state Senate as each metropolitan resident.

The extreme result of the federal plan is even more astonishing. It gives 11,000 people in Inyo and Mono counties equal representation in the Senate with 3,584,000 people in Los Angeles (1945). Thus, a vote for the Senate from Inyo and Mono counties is worth roughly 326 votes from Los Angeles. (See Table 2.)

EFFECTS OF FEDERAL PLAN

The effect of this disparity in representation within the Senate is not measured simply in statistical ratios of people to senators. Since no measure can be adopted without consent of both houses, each house exercises a veto on acts by the other. This fact gives the Senate, representing "territory," the power to bring any piece of legislation proposing to shape the social prospect of southern California, whether passed by the Assembly or not, to a complete stop.

Let us examine the record of some

more bills. A bill to regulate child labor passed the Assembly without dissenting vote. The Senate killed it noiselessly by declining to withdraw it from committee. Central Valley senators, representing 9 per cent of the population of the state, cast one-quarter of the senatorial vote against the motion, and the remaining nonmetropolitan areas, representing 11 per cent of the state's population, cast another quarter—sufficient, with some senators not voting, to kill the motion. It was to no avail that senators representing 69 per cent of the state's population voted to take up child labor legislation. The political power of only 20 per cent of the people of the state, resting on territory, was enough to block them.

Similarly, a measure to extend the maximum unemployment compensation benefits from 23 to 26 weeks, which passed the Assembly with but 3 dissenting votes, was supported by the Los Angeles senator representing 39 per cent of the state's population, and by senators representing all told 63 per cent of the state's population. The measure was killed by senators who represent only 36 per cent of the state's population, but who represent what the federal plan has made more important—a great deal of the state's territory. A bill passed unanimously by the Assembly to assure men and women equal pay for equal work was killed in identical fashion.

CENTRAL VALLEY'S PROBLEM

Among people who live in the Central Valley, and more or less unconsciously exercise the great power which senate apportionment by territory has placed in their hands, an issue of growing prominence is how best to develop the water resources upon which the Valley depends. Whether to develop these resources through a single agency or

several, and how to distribute the benefits of publicly developed power and irrigation water, are questions which seem more important to people in Central Valley than whether or not the state has laws providing for stricter child labor regulation, equal pay for equal work, extended unemployment compensation benefits, a Fair Employment Practice Committee, or even a strong full employment bill and compulsory health insurance.

There is a "progressive" side and a "conservative" side to the issues of Central Valley water development, just as there are progressive and conservative sides to proposed solutions for the social problems in southern California. The great issues of Central Valley water development are threefold: (1) Shall development be unified, or shall single-stream plans by two or more agencies with differing purposes be put together to make a whole? The progressive solution is unified development; the conservative solution is to use the plans of various agencies. (2) Shall publicly generated power be transmitted over public lines to public distribution agencies as a device to obtain cheaper power, or shall the power be sold or transmitted over private utility lines in such wise as to merge it into present rate structure and levels? The progressive answer is the former; the conservative answer, the latter. (3) Shall the 160-acre water limitation be maintained to promote family farms by reduction of land speculation and land monopoly, or shall it be repealed as a disturbance to the existing land economy of the Valley? The progressive answer is to retain the 160-acre water limitation, and the conservative answer is to scrap it.

No one would say that those who vote "progressive" or "conservative" on one or two issues will vote the same way on all; exceptions can be named too easily. Yet it is plain that a tendency

in that direction exists. With knowledge of the issues which now divide the people of the Valley, the people of southern California can chart their course. If, as the votes of assemblymen from southern California suggest, its people prefer progressive solutions to their problems, and wish to avoid ob-

struction of these solutions by votes from the Central Valley, they will take steps to encourage progressive solutions of the water problem of the Valley. If, on the other hand, they prefer conservative attitudes toward their problems, they will welcome the existing condition.

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Housing Problems of Minority Groups in Los Angeles County

By CHARLES B. SPAULDING

IF THIS were a thesis or a dissertation, the topic would be described somewhat as follows: an examination of the housing problems of three important minority groups in Los Angeles County, and of certain phases of the community's reactions to these problems during the war years of 1940 to 1945 inclusive. The paper deals with history, but the implications of that recent history for the future seem apparent.

PREWAR APATHY TOWARD MINORITIES

The situation in Los Angeles County must be viewed against a series of wartime developments peculiar to this region. The newspapers of southern California carried during the war a long series of items involving the relationships of distinguishable racial groups. An analysis of items appearing on the front pages of the two main sections of the *Los Angeles Times* illustrates this fact. In each of the years of this study, the number of articles dealing with minority groups was as follows:

Year	No. of Articles
1940	27
1941	48
1942	124
1943	74
1944	59
1945	45

The figures presented reveal that by far the smallest number of news items appeared in 1940. Tensions existed in that year, but other matters were in the forefront of public attention, and people went about their habitual daily routines with relatively little thought concerning

the presence of minority and majority groups.

This relative calm seems to have been correlated with several facts. During the period from 1930 to 1940 the only minority group which had been growing more rapidly than the total population was the Negroes; and the Negroes had already established large residential areas, so that their invasions tended to be gradual marginal infiltrations into areas close to predominantly colored residential districts.

The population of Los Angeles County in April 1940 as given by the United States Census was 2,785,643. Of this number, an estimated 212,000 were persons of Mexican ancestry, approximately 75,000 were Negroes, and 37,000 were Japanese. The Negroes had grown from 2.1 per cent of the population in 1930 to 2.7 per cent in 1940. They had increased 62 per cent, while the total population had grown by some 26 per cent. Hansen and Beckett concluded that the Mexican in-migration had been at a rate lower than that of the total population, but that this group had remained a roughly constant proportion of the population because of the higher birth rate among them.¹ The Japanese population had increased only slightly from 1930 to 1940.

The minorities occupied in general the poorest housing in the county, and a combination of circumstances kept them there. A study conducted in 1939 by the Housing Authority of the City of Los Angeles of some 250,000 dwelling units, mostly in the central areas of the

¹ Earl Hansen and Paul Beckett, *Los Angeles: Its People and Its Homes* (Los Angeles: Haynes Foundation, 1944), p. 37.

city, revealed that the percentage of the various racial groups living in substandard housing were as follows: Anglo-Americans, 18.3 per cent; Negro-Americans, 28.6 per cent; Oriental-Americans, 47.2 per cent; Mexican-Americans, 59.6 per cent.²

An analysis of census data as well as direct study of several areas outside the contiguously occupied metropolitan center revealed that outside this center only two minority groups were present in any considerable numbers in 1940: these were the Mexicans and the Japanese. Both were present in considerable numbers in the close-in agricultural areas. All of the minorities tended to remain segregated for many reasons.

CONFLICT ON THE BORDER LINES

The most noticeable tension existing in 1940 as a result of minority housing developments concerned the Negroes. In the first place, their numbers had been growing rapidly, as previously mentioned, and the increasing numbers augmented the size of the most highly segregated of the minority groups. A map prepared by the Los Angeles City Planning Commission demonstrates this fact. The Negroes did enjoy somewhat better housing than the other groups studied. One result was that they tended to invade areas already occupied and desired by white residents. They did not always seek the lowest-rent urban and rural housing. They piled up in areas of high concentration and visibility and tended to push vigorously, if gradually, against the walls of resistance around them. Around these areas the white residents tended to worry.

In spite of these tensions, the changes were being made without much general public attention to the minority group

involved. The conflicts which had developed were principally at the peripheries of the established Negro aggregates, and as the Negroes pushed into adjoining areas the resulting conflicts tended to be of the nature of minor skirmishes on a stabilized front of trench warfare. As far as the general public was concerned, all was quiet. After each minor thrust, a new accommodation tended to result. This process had been carefully studied a few years earlier by Dr. J. Max Bond in his dissertation on "The Negro in Los Angeles."³

In 1940 even the law seemed reasonably settled, and many interested persons relied upon their declarations of restrictions to protect them from unwelcome invasions. Persons interviewed early in the period expressed much more confidence in the restrictions on their property than did those with whom later discussions were held.

WARTIME HOUSING SHORTAGES

Then came the war! The movements of population speeded up. The housing shortage developed. Tensions and pressures grew rapidly. Many persons from both minority and majority groups soon found themselves desperately hunting suitable abodes. Two of the minority groups here being considered seem to have suffered more than the average, while the Mexicans appear to have suffered relatively less.

The Mexicans simply went on living in their accustomed inferior housing. No responsible statistical studies seem to have been made of changes in their numbers, but several people who worked closely with them reported that relatively little over-all change had taken place.

The Japanese were, of course, evacu-

² *A Decent Home an American Right*, 5th, 6th, and 7th Consolidated Report, Housing Authority of the City of Los Angeles, p. 14.

³ Unpublished doctoral dissertation, University of Southern California, Los Angeles, 1936, pp. 95 ff.

ated in 1942, and their lives and problems were withdrawn from southern California until 1945.

THE NEGRO SITUATION

During the middle of the war years the special housing problems of minority groups were the problems of the Negroes. During most of the period the Negroes continued to increase more rapidly than the total population. The special census of April 1944 showed that Negroes in the Metropolitan District had increased since April 1940 by 58,791, or 78.2 per cent. The increase for the total population of the county was 23.3 per cent as shown by this census. No satisfactory figures for Negro population changes could be obtained for the period from April 1944 to December 1945, but all informed observers agreed that considerable numbers of Negroes had come into the area during that period.

Two different estimates of shortages of Negro housing were discovered in the course of this study. Neither estimate can be established as being highly accurate, but both showed a Negro housing shortage of some 11,000 to 12,000 units. This number was roughly one-third of all housing units available for these people in 1945. Even if the margin of error is wide, a shortage more severe than that suffered by the white residents seems evident.

The first and basic reason for the more severe shortage for Negroes was, of course, the strict segregation noted above. The legal basis of the system in Los Angeles was the judge-made law which prevented the use of property by classes of persons specifically excluded by restrictive provisions in deeds, or in covenants signed by the property owners and recorded with the County Recorder. For years, many of the borders of the Negro communities had been areas of trench warfare between the

Negroes pressing in and the whites pushing them back. In many areas, committees or persons were ever on the alert to repel invasion, to bring legal action if necessary against intruders, to encourage the neighbors to sign covenants if they had not done so, and to discourage sales to Negroes. In spite of this situation, many areas were successfully invaded, and a prominent Negro lawyer estimated in early 1946 that well over half of all land occupied by Negroes was theoretically protected from such use by restrictive covenants.

In late 1942 and 1943 the Negro influx was dramatically brought to the attention of the whole area by pictures of living conditions in the Little Tokyo area which they had occupied in the wake of the Japanese evacuees. Little Tokyo, or Bronzeville as it was later called, was the Japanese business district in the older portion of downtown Los Angeles. As the Negro in-migrants crowded into unused store and restaurant buildings their sorry plight soon became apparent to the social workers, the police, and the health authorities. The newspapers finally burst out with stories. The community was on notice of the influx.

Two distinct types of reaction immediately became apparent. In the first place, the white residents in areas near Negro settlements rushed to the barricades. A veritable wave of covenanting developed.

EFFORTS TO SOLVE PROBLEM

In the second place, a group soon formed to find solutions. A committee was sponsored by the Council of Social Agencies, and this group began to press for more public housing. Many persons already interested in public housing renewed their efforts. As a result of this interest, some action was taken by the public housing authorities to establish units available to Negro people.

Private construction did little to aid the Negroes in their search for shelter. In July 1945 Dr. George Gleason assembled figures which indicated that approximately 3 per cent of new private housing constructed under National Housing Agency permit during the war was available to Negroes, while Negroes constituted over 12 per cent of the in-migrants.

The greatest assistance to the Negroes came through public housing, and especially through the efforts of the Los Angeles housing authority. This fact shows up in the report of the Housing Authority of the City of Los Angeles for February 1946. At that date the racial pattern of occupancy in the 11,170 units controlled by the authority was: Whites, 57.9 per cent; Negroes, 27.4 per cent; other, 14.7 per cent. Most of the "others" were Mexicans, and all the occupants had moved in since January 1941. The distribution occurred in spite of the fact that many of the permanent developments of this agency were in areas previously populated by persons of Mexican ancestry.

The pressure on the Negro people, associated as it was with the publicity given other interracial matters, resulted in the development of social organizations in the community to represent the interests of minority groups. The Los Angeles riots of June 1943 gave these organizations their greatest stimulus, and the wave of riots that swept the Nation in that year added urgency.

INTERESTED GROUPS

One result of this effervescence was the Los Angeles Council for Civic Unity, which set out specifically to draw together as many as possible of the organizations interested in furthering what they conceived to be just treatment of minority groups. An analysis of the organizations which were its

members therefore provides a rough index to the various groups which were interested in securing attention to the needs of minorities, including housing.

This analysis roughly identified the principal nuclei of community pressure in these matters as follows: (1) The minority groups were themselves organized, and this was especially true of the Jewish people and the Negroes. (2) A large number of individuals, congregations, and special agencies of the Christian churches were represented. In this class were included a few settlements and group-work agencies with definite Christian outlook. (3) A powerful pressure came from organized labor, especially from certain individuals in the CIO. (4) The original stimulus for the Council for Civic Unity came from certain political groups somewhat "left of center." The heart of these groups seemed to be what might be called professional people (i.e., studio technicians, actors, writers, and attorneys representing unions), members of certain minority groups, and some persons employed by governmental agencies. This fourth element seemed to have fairly well established liaison with the third class.

INDIFFERENT SUCCESS

In spite of this agitation, and of the news with a racial orientation noted above, the basic problem of living space for Negroes appeared to receive very little attention from those members of the general public not immediately involved. The analysis of the front pages of the *Times* revealed the following numbers of items on housing for minorities:

1940	0
1941	0
1942	0
1943	4
1944	1
1945	1

One who has followed, even at a distance, the developments here being outlined must be utterly amazed at these figures, but there they are! Even the Little Tokyo situation did not attain the front page even of Part II of the *Times* until a Federal investigator arrived in Los Angeles in late 1943.

The general subject of housing received considerably more attention on the front pages, especially in late 1945 when veterans began to return in large number. One person who had fought doggedly throughout the war to secure more housing for the area remarked bitterly in late 1945, "It's now respectable to have a housing shortage."

The groups which had been pushing for public housing and for special attention to minorities now found new allies. They were joined by the veterans' organizations. They revived an organization known as the Los Angeles Citizens Housing Council. The Council for Civic Unity took an active part in this revival.

SOURCE OF OPPOSITION

When the proponents of better opportunities for minorities went forth to battle, not only in 1945 but earlier, where did they find their opposition? A very active member of the citizens council summarized the opposition as "real estate people, speculative builders, financial institutions, contractors—the building industry."⁴ Other evidence piles up to support the general accuracy of his statement and to indicate that these groups tended to resist the measures of the reformers.

The attitudes of the majority of the members of the building industry can be fairly well summarized on a basis of interview data as follows:

1. They assumed that minorities would live in inferior housing, and ex-

pressed no special concern over the situation—that's just the way the automatic economy works.

2. Segregation was taken for granted, and with it the whole set of usual, unobtrusive devices for achieving and perpetuating it.

3. The real fear of the building industry was of the growth of governmental activities in the housing field.

From the third point just mentioned flowed a deep feeling against the reformers who tended to uphold and advocate the use of governmental authority.

The active pressures of these business groups seem to have been not so much against minorities as against efforts to aid these minorities which involved any infringements on the opportunities for private enterprise to do whatever was to be done in the way of providing housing, and also against any move which might change the rules of the real estate business. This conclusion was borne out by an analysis of the editorial comment in approximately one-third of the issues of the *Southwest Builder and Contractor* for the years 1940-45.

COMPLICATIONS

During 1945 the situation was further complicated by the return of many Japanese who were released from, and finally forced out of, the relocation centers. Some 23,000 of them returned to Los Angeles County.⁵ A man who was working night and day trying to help them find places to live estimated that at the end of 1945 approximately one-half of them had found dwelling places. Of the other half, some 2,200 were in abandoned army barracks built of boards and tar paper; some 1,500 were in hostels run principally by religious groups; and the rest were "doubling up" with those who had found accommodations. They had gone back into much

⁴ Personal interview.

⁵ War Relocation Authority figures.

the same sections of the city from which they had come, but they had had difficulty returning to the rural areas, because the antagonisms seemed more virulent there and the land was being operated by others.

The desperate efforts of the restricted minorities to find living room during the war years had resulted also in many lawsuits and a vigorous attack upon certain rules of law. As suits were brought against colored occupants, various of the organizations previously mentioned stood willing to aid in the fight, especially where appeals to higher courts were in order. These events had cast some doubts on the legality of restrictive covenants, and a vigorous campaign was being conducted to convince the courts that such restrictions were contrary to the equal-protection-of-the-laws clause of the Fourteenth Amendment to the Constitution of the United States. During this month of June 1946 a number of cases which will test various aspects of the law covering restrictive covenants are being argued before the Supreme Court of California

which is now sitting in Los Angeles.

PRESENT PLANS

In late 1945 various governmental agencies were quietly working to assist in solving the housing problems of the minorities. The County Committee for Interracial Progress was collecting information for the Board of Supervisors. The Housing Authority of the City of Los Angeles had just announced a three-year program for the construction of 5,000 new units. And this authority was actively promoting interracial occupancy. The County Housing Authority had not yet announced a program, and was thinking in terms of 1,500 units for the next three years. The Planning Commission of the City of Los Angeles and the Regional Planning Commission both took the official stand that they planned for better community living irrespective of race or creed; but in their plans were developing outlines which could not fail to affect minority groups. Incidentally, in these plans this speaker could find nothing but continued segregation.

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Cross Filing of Political Candidates in California

By DEAN E. MCHENRY

ON JUNE 5, 1946 many American newspaper readers and radio listeners were amazed to hear that Governor Earl Warren of California had won both Republican and Democratic nominations in the primary election held the day before. Not only was the governorship filled, but also virtually elected in the primary were the Secretary of State, the Controller, the Treasurer, all four members of the Board of Equalization, twelve of the state's twenty-three Representatives in Congress, at least fifteen of the twenty state senators up for election, and perhaps sixty of the eighty members of the State Assembly.

The unique device through which this is possible is called "cross filing." It is also called double or plural filing. It is the practice of permitting a candidate in a partisan primary election to seek the nominations of parties other than his own. As used in California since 1913, no test of party affiliation has been a prerequisite for an aspirant for any party's nomination. The successful cross filer is one who manages to secure both major party nominations. His name then appears on the November ballot with the label "Republican-Democratic" or "Democratic-Republican," his own party affiliation appearing first. The November election usually becomes a mere formality for the cross filer who has won both party nominations.

HISTORY OF THE PRACTICE

Although California pioneered in indirect and optional primary election laws, it was not until 1909 that the conventional system of nominating candidates for partisan offices was replaced by the *direct* primary system.

The 1909 law contained a rigid party test under which the candidate had to declare that he had supported the party at the preceding general election.¹ This test was held reasonable by the Supreme Court in *Socialist Party v. Uhl*, 155 Cal. 776 (1909). Modified in 1911, the test was dropped altogether in 1913 and the right of a person to become a candidate of more than one party was expressly conferred. This was upheld in *Hart v. Jordan*, 168 Cal. 321 (1914). In 1917 the primary law was amended to disqualify a candidate from holding another party's nomination if he lost his own. This disqualification clause was tested in the courts and found valid in *Heney v. Jordan*, 179 Cal. 24 (1918). After the disqualification of James Rolph, Jr., in the 1918 gubernatorial primary, the 1919 Legislature added a provision permitting the appropriate party committee to fill vacancies caused by disqualification.

From other studies it appears that cross filing in restricted form is permitted only by Maine, Maryland, Massachusetts, New York, and Vermont.² Only in New York is cross filing a regular practice, and in that state the party system is strong enough to make very remarkable the feat of capturing both major party nominations, as was done by Representative Vito Marcantonio in 1944. Cross filing in the New York primary is important mainly because of its use in juggling the third-party vote

¹ For a good survey of early history, see Victor J. West, "The California Direct Primary," *The Annals of the American Academy of Political and Social Science*, Vol. 106 (March 1923), pp. 116-27.

² Arthur Harris and Carl Uhr, *Direct Primary Election* (Berkeley: Bureau of Public Administration, University of California, 1941 Legislative Problems, No. 3), pp. 14-17.

TABLE 1—SUCCESSFUL CROSS FILING FOR LEGISLATIVE OFFICES
IN CALIFORNIA, 1922-44

	Congress ^a			State Senate ^b			State Assembly ^c		
	Rep.	Dem.	Total	Rep.	Dem.	Total	Rep.	Dem.	Total
1922	6	2	8	7	2	9	26	2	28
1924	5	2	7	7	0	7	31	1	32
1926	5	1	6	7	4	11	26	7	33
1928	7	1	8	9	0	9	30	5	35
1930	8	1	9	7	3	10	25	2	27
1932	4	1	5	9	2	11	20	3	23
1934	5	3	8	11	4	15	20	13	33
1936	4	2	6	9	3	12	22	15	37
1938	5	1	6	9	4	13	16	15	31
1940	7	4	11	11	4	15	28	21	49
1942	6	6	12	9	8	17	26	24	50
1944	4	3	7	11	7	18	35	29	64

^a Eleven from 1922 to 1930; 20 from 1932 to 1940; 23 from 1942 to 1950.

^b Twenty elected each two years.

^c Eighty elected each two years.

Source: This tabulation is an extension of one by Frank Andersen in a senior seminar paper entitled "Cross Filing by Candidates in California Direct Primary Elections, 1922-1940," written May, 1941 at the University of California, Los Angeles.

that goes under the banner of Labor, Liberal, and other minor parties.

EXTENT OF USE

Cross filing is most commonly used by candidates for congressional, state assembly, state senatorial, and minor state executive offices. Earl Warren in 1946 was the first candidate for the governorship to secure both party nominations. Hiram W. Johnson in 1940 became the only candidate for a United States Senatorship to win the two major party nominations. No one has yet secured the lieutenant-governorship by successfully cross filing in the primaries.

For the other congressional and state offices, however, cross filing is now attempted by nearly all serious candidates. As shown in Table 1, a large proportion of these offices is won, in effect, by clinching both Democratic and Republican nominations in the primary. The peak in successful cross filing was reached for the office of Representative

in Congress in 1940, when 55 per cent of the seats were filled in the primary; in both 1942 and 1944, 52.17 per cent were so filled. The top in State Senate cross filing was reached in 1944, when 90 per cent of the districts holding elections gave both party nominations to a single candidate in the primary. The maximum for State Assembly occurred in 1944, when candidates for 80 per cent of the lower-house seats secured both party nominations.

Minor state executive offices are won by cross filing with considerable regularity. In the period 1914-46 the contest for Secretary of State has extended beyond the primaries in only three of the nine elections. The incumbent State Controllers have secured both party nominations in all but three primaries since 1914. The present State Treasurer has cross filed successfully in the last three elections. The office of Attorney General was won by cross filing at every election from 1914 to 1938, but a contest was necessary in the No-

vember elections of both 1942 and 1946. Thirty-four Republicans and one Democrat have won minor state executive offices in the nine elections since 1914.

DISQUALIFICATION

By its very nature, cross filing obscures party lines. The more usual way to liberalize primaries and to reduce partisanship is to adopt the open primary, thus removing party affiliation requirements for voters. California has retained the closed primary as far as voters are concerned, but has opened wide the gates in respect to candidates.

In California, however, one peculiar deference is made to partisanship; no person may accept the nomination of any other party if he has not won his own party's nomination. In 1918 James Rolph, Jr., won the Democratic nomination for the governorship; he was not permitted to accept because he lost his own, the Republican.

Most disqualifications occur to candidates who have identified themselves closely with a party other than their own. A recent example was the elimination of John M. Costello, who had frequently voted in Congress against New Deal measures. In the 1944 primary he won the Republican nomination, but lost his own, the Democratic. In 1942 Gordon Garland, another conservative Democrat, was disqualified for the Republican nomination for Board of Equalization because he failed to win the Democratic one.

Disqualifications occur more frequently among candidates for state legislative office. The highest number of disqualifications in recent years was in 1940, when 7.5 per cent of the Assembly seats had one nomination voided by failure of a candidate to win his own party nomination.

At the time Rolph was disqualified as Democratic candidate for Governor, there was no provision in the law for

filling such a vacancy. Afterwards the Legislature provided that the appropriate party committee should nominate a candidate to fill the place on the ballot left by such a disqualification.

MINORITY WINNERS

One of the most serious objections to the operation of cross filing in California is the tendency to produce minority winners. A minority winner is a candidate who cross files successfully, securing both party nominations, yet polls less than a majority of the votes cast for the office. Every primary election since 1922 has produced a number of minority winners. The percentage of successful cross filers who secured less than a majority of votes cast has run as high as 19.7 per cent in 1934 and 18.0 per cent in 1938.

Two types of situations account for most of the minority winners. Situation A involves Mr. Z, a Republican incumbent seeking re-election, who is confronted by a large Democratic registration. Three Democratic candidates enter the primary fray, each one backed by a faction of the party. Although polling only 38 per cent of the Democratic vote and 49 per cent of the Republican, Mr. Z has the highest total in each category and therefore wins both party nominations. Situation B is a contest for a state legislative seat in which there is no incumbent. A dozen aspirants enter; most of them seek both nominations. Aspirant Y, backed by a local newspaper or a faction or with more money to spend than the others, polls 31 per cent of the Democratic and 29 per cent of the Republican vote. Since he has the highest number of votes in each party, he has cross filed successfully and is virtually assured election in November.

By way of contrast, the California nonpartisan primary, which is used for all elective local, school, and judicial

offices, assures a majority winner. On the primary ballot the names of all candidates appear. If one candidate secures over 50 per cent of the votes cast for the office, he is declared elected. If no candidate has a majority, the two highest enter a run-off in the November election.

INDEPENDENT CANDIDATES

If a candidate cross files successfully in a partisan primary election, is there no remedy in the November election? Remedies exist, but they are so difficult to apply that they have been used very seldom.

First, election law provides that the name of an "independent" candidate may be entered on the November ballot by an extraordinary procedure. The candidate must be some qualified person who *did not vote* in the primary election, and he must secure on his nomination paper the signatures of persons who *did not vote* in the primary, equal in number to 5 per cent of the total vote in the area in the last general election.³ Only once in recent years has this procedure been used successfully. In 1944 J. B. Knight secured both party nominations for Assembly in the Fifty-fourth Assembly District. Ralph A. Beal was nominated by independent petition and succeeded in defeating his opponent.

Second, "write-in" campaigns may be conducted. The political career of Ellis E. Patterson was threatened in 1936, when as a Republican he was defeated for his own party's nomination and disqualified for the Democratic, which he won. The Democratic decided not to fill the vacancy created by the disqualification, and Patterson successfully conducted a "write-in" campaign that brought him victory in the November election.

Third, voters may vote for minor

party candidates. Formerly, California had several minor parties, but the era of the New Deal and the rigid qualifications for party status have eliminated nearly all such parties from the ballot. In order to qualify for a place on the ballot, a new third party must secure a registration equal to 1 per cent of the total vote at the last election or obtain on a petition the signatures of voters equal in number to 10 per cent of the total vote at the last election. At the present time, this would require about 40,000 registrations or 350,000 signatures.

WHO LIKES CROSS FILING

Various theories have been advanced to explain who secures the advantage by cross filing. Among them are the following:

1. *The minority party.* It is argued that the weaker of the two parties can use cross filing to capture both nominations when a straight party fight in November would lead to defeat. While the minority party may benefit by clever use of the device, the election returns in California show a utilization of it that is proportionate to the strength of the two parties in state politics.

2. *Republicans.* Since 1932 cross filing has been attacked by Democrats on the ground that it has prevented their party from capturing the offices that might have been expected in the era of the New Deal. They are correct in this analysis, but as Republican strength has returned, Democratic officeholders are able to hang on while Republicans denounce cross filing for standing in the way of a full G.O.P. return.

3. *The declining party.* From the foregoing it may be seen that the party declining in strength is the one most helped. Cross filing is a defensive device of the receding side, whether Democratic or Republican, majority or minority.

³ California, *Elections Code*, Sec. 3040.

4. *The side with the most money and newspaper support.* Cross filing is advantageous also to the side that can command generous financial support. This money can be used to buy billboard space, radio time, and press publicity. The economy aspect appeals to candidates. Since Republicans and Democrats read the same billboards and listen to the same radio stations, the votes of both may well be solicited during the primary campaign. A large amount of money spent in the primary may create an illusion of victory that will help to secure the simple plurality necessary to win each party's nomination.

5. *The incumbent.* The clearest beneficiary of all is the one who holds the office being contested. For the incumbent, cross filing makes possible the nipping of potential opposition in the bud with the prestige born of being already in office.

WHO OPPOSES CROSS FILING

The opponents of cross filing vary from time to time and from section to section, but include:

1. *Those who believe in party government.* In most governments, democracy functions best through political parties. Parties provide many services of value: they should help to crystallize opinion on public issues, narrow down the candidate alternatives before the electorate, inform and educate the voters, and provide political responsibility. The last especially is not possible if outsiders not accepting a party's policies and platform are permitted to seek and receive the party's nomination for office. Great numbers of voters, especially in urban areas, judge candidates by their party's record. Cross filing makes identification of a candidate's party difficult, for he uses both his own face and a mask, his candidacy in the opposing party.

2. *The party with mounting strength.* The party on the gain, rising in strength, is naturally impatient to capture the offices it has not held. Cross filing helps to make the incumbent secure. During the last fifteen years, the Democrats have denounced cross filing and have sought its repeal through the initiative. In the 1942, 1944, and 1946 primaries, however, the Democrats fared about as well in cross filing as did their opponents.

3. *The "outs" generally.* Anyone who wants to get rid of an incumbent must resent the cross filing device, for it places the challenger at a disadvantage. The incumbent, with a public salary and some prestige, enjoys a great advantage. If he has newspaper support also, his position may prove nearly impregnable.

IMPACT ON POLITICAL PARTIES

Political parties are weak in California for a number of reasons. (1) Cross filing is one of the most important. (2) The independent tradition, born of the 1910 revolt against the Southern Pacific machine, carries a suspicion of parties and a reliance upon individual leaders. (3) The population is both new and transient, and parties are unable to rely much on fixed loyalties of "solid" geographic areas. (4) Nonpartisanship in local governmental affairs has resulted in diminished activities by and interest in parties. (5) Merit systems—state and local—are so widespread that "rewarding the faithful" is rigidly restricted. (6) Pressure groups are so highly organized that some of them now perform tasks, such as organizing precincts, in which parties have utterly failed.

Lacking parties of vigor, California has come to be ruled by a semiresponsible oligarchy. The long ballot imposes an impossible burden on the average voter. Unable to judge the stew-

ardship in office of his representatives, he tends either to follow blindly newspaper recommendations, or to vote for the incumbent just to "play safe." With a Governor and a majority of legislators elected under dual party labels, California in 1947-51 will lack the direction and leadership a strong party system can help to produce. Legislators who have impregnable pedestals of their own upon which to stand can easily prove nonresponsive to demands for the general welfare and become willing agents of special interests. The only satisfactory solution is the restoration of the party system.

This will require amendment of the direct primary law to forbid persons to become candidates of any other party than the one with which they are registered. Utilization of cross filing by state legislators is so extensive that initiative action probably will be necessary. This will require petitions signed by 5 per cent of the number voting for

Governor at the last general election. Both in 1942 and 1946, initiative petitions were circulated. The 1942 initiative did not receive enough signatures to qualify for a place on the ballot. The 1946 petitions, which require over 110,000 valid signatures, are still short of that goal.

If parties cannot be strengthened, California may turn to nonpartisanship for all state offices. The elimination of national party labels from the state ballot would at least end the deceptive practice of candidates masquerading under colors other than their own. In 1915 the progressive forces in the Legislature enacted a nonpartisanship law, but it was held up and defeated by referendum vote. The nonpartisan plan might have worked satisfactorily. California, however, has retained since 1914 its cross filing device that makes party government impossible and yet bars the way to the development of a good substitute.

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Sectionalism in State Politics

By GEORGE W. BEMIS

SECTIONALISM in one form or another has existed in California since the beginning of statehood. In the early days the line of division was between the eastern gold-mining counties and the rest of the state, particularly the southern part of the state. In 1852 Governor McDougall, in his message to the Legislature, pointed out that the twelve gold-mining counties paid only half as much in state taxes as did the six southern California counties; at the same time, the mining counties contained twenty times the population of the southern counties, and had four times the number of representatives in the State Legislature. Ten years later the eastern mountain section still contained almost half the total population of the state.

During the Civil War and afterwards, the section experiencing the most rapid growth was the area in the heart of the Great Valley and adjacent to the lower reaches of the Sacramento and San Joaquin rivers. The Santa Clara Valley lying south of San Francisco Bay, and the Sonoma and Napa valleys extending north from the Bay, likewise grew rapidly in both population and political importance. The entire area described was located close to the city and port of San Francisco, which offered superior marketing facilities for the disposal of surplus products. Completion of the Central Pacific Railroad in 1869 was another great stimulus to rapid growth in this central-northern area.

The two decades following 1860 marked the rise of agriculture to a position of first importance in California economy. During the three-year period from 1874 to 1876, for example, the area of land under cultivation increased

by 50 per cent. The predominating characteristic of this expanding agricultural activity was grain farming, with gradually increasing attention devoted to the growing of fruits, vegetables, and dairy products. On the other hand, cattle and sheep raising industries suffered a steady decline, as did gold mining. Commerce and manufacturing showed a remarkable growth at that time. By 1880 the ratio between agriculture and mining on the basis of total value of annual production was three to one; and between manufacturing and mining, six to one.

BACKWARDNESS IN SOUTHERN CALIFORNIA

These figures on growth and development relate almost exclusively to northern and central California. Southern California, during the same period, was severely handicapped by geographic distance from the main seat of activities, and the absence of adequate transportation facilities. In 1870 the city of Los Angeles had a population of less than 5,000, as compared to 150,000 in San Francisco and 16,000 in Sacramento. A very brief period of business and industrial activity arising from railroad promotional activity in the early 1870's was followed by several years of economic stagnation. In 1876, when the Southern Pacific Railroad extended its transcontinental lines into Los Angeles from the north, the long heralded prosperity turned out to be a deep depression.

Until the 1880's, southern California to a large degree retained its primitive economy based on the production of cattle, horses, and wine, and its unique blend of Mexican and American culture. It was the stronghold of the "cow coun-

ties," and Los Angeles, as "Queen of the Cow Counties," was the center of an exciting, although easygoing, social and industrial life.

Politically, the sectional conflicts which occurred during this early period of California's history were expressed in the extreme form of separatism, or state division. Threats of this sort were common, and in some instances resulted in positive actions. Although usually occasioned by controversies over the incidence of taxation, these early movements for state division represented deep-lying social differences as well, which were generally pervasive throughout the respective sections. Agitation for the same purpose in later years, however, was motivated almost exclusively by economic factors, and was usually confined to a few particular areas in the two sections. In 1881 delegates from the outlying southern California counties, attending a protest meeting over the California law of riparian rights, refused to join in any active steps toward state division, because they suspected an ulterior ambition on the part of the city of Los Angeles to become the capital of any new state of southern California which might be created.

RAPID GROWTH IN SOUTHERN CALIFORNIA

From 1880 to 1910, the pattern of growth in the state was entirely different. With the completion of an Atchison, Topeka and Santa Fe Railroad line to Los Angeles in 1885, as contrasted to the coming of the Southern Pacific line ten years before, an era of phenomenal growth was ushered in—the "Great Boom of the Eighties." Through the vision and energies of a group of enterprising businessmen in Los Angeles the inevitable recession which followed was quickly counteracted, and two decades of more or less

regulated (or promoted!) growth followed. Since the principal resource of the section was agriculture, a special appeal was made to the farming communities of the Middle West; and that is where most of the newcomers came from during that thirty-year period.

In the boom decade of 1880-90 the southern counties increased in population at a rate which was eight times the average for the state. In the decade following 1900 it was more than four times the average for the state.

POLITICAL REPERCUSSIONS

The repercussions of this radically different pattern of population growth were numerous and forceful. If the straight rule of population was to be followed, a complete realignment of political power in the state was in order. Southern California as a whole would gain, and, of course, northern California as a whole would lose. The distribution of this loss in the north, however, would be uneven. The north and south coastal regions and the five counties in the extreme north would just about hold their own in the adjusting process. The San Joaquin Valley would improve its status somewhat, and Alameda County would gain substantially. It was only in San Francisco, in the eastern mountain region, and in the Sacramento Valley that serious relative loss would be suffered.

Of greatest practical importance to the reapportionment issue at the 1911 session of the Legislature was the fact that San Francisco accounted for 27 per cent of the state's population in 1880 and only 17 per cent in 1910, while Los Angeles County, during the same period, increased its percentage of the total population from 4 per cent to 21 per cent. This, in spite of a considerable reduction in area resulting from the creation of Orange County.

As a preliminary to the protracted

controversy over reapportionment of the Legislature, which occurred during the 1911 sessions, the issue of state division again reared its head. This time it was occasioned by action of the State Board of Equalization in raising assessed valuations in the southern counties by a substantially greater percentage than in the remainder of the state. It was obvious, however, from statements made at a meeting called to consider the question, that the prevailing sentiment favored an aggressive demand for proper consideration within the existing framework of state government, rather than a defensive move for protection through separation. Economically, the south was on the way to becoming dominant. Politically, the south expected sooner or later to exercise a controlling interest.

COUNTRY VERSUS CITY

A second and equally important effect of growth in California during the thirty years prior to 1910 was the concentration of approximately half of all the people of the state in the three counties of San Francisco, Alameda, and Los Angeles, which comprised only a small fraction of the total area. The "country" members of the Legislature were afraid of "big city" domination. There was a desire to protect the interests of farming, lumbering, and mining, and to provide political representation favorable to the continued development of the larger inland cities as commercial and wholesale trading centers.

After a great amount of maneuvering, reapportionment bills were finally approved at a special session of the Legislature which followed the regular session. The compromise program which was adopted was formulated by a conference of legislators from the non-metropolitan counties, known as "the country caucus." A bill underrepresenting both San Francisco and Los

Angeles went through finally because of a break in the ranks of the three metropolitan counties which previously had held together in support of other legislation. Aside from accomplishing its direct objective, this coalition of the smaller counties of the state demonstrated the ability of the rural members to co-operate, and the political power of their organization.

The creation of the bloc represented a strong feeling that farming, stock raising, mining, forestry, and their related activities gave rise to special problems best understood by country legislators. It also constituted a recognition of the fact that conditions in large metropolitan centers are favorable to the development in strength of organized labor and of socialist movements. During the preceding decade, San Francisco had been governed for more than two-thirds of the time by the Union Labor Party; Oakland, in Alameda County, ranked second in the state in labor union membership; and in the city of Los Angeles, shortly before the special session of the Legislature, a Union Labor and Socialist candidate for mayor polled 15,000 votes to 13,000 for the "good government" incumbent in the primary election.

Ten years later, in 1921, sectional conflicts over representation in the State Legislature again occurred. By this time the situation had reached a point where reapportionment action was impossible. Trends of growth in population, wealth, industry, and commerce—previously noted—continued during this ten-year period, and clearly indicated predominance of the south and predominance of the large metropolitan centers. Repeated attempts were made to effect a compromise, but none was forthcoming. Finally, after the 1925 session of the Legislature had resulted in serious sectional deadlocks over the financing of state highways, creation of

a metropolitan water district in southern California, and other issues of statewide importance, the troublesome issue was submitted to a direct vote of the people by means of the constitutional initiative.

As before, fifteen years earlier, the "country" interests were more successful in presenting their case to the people than were the "city" interests, and for the same reasons—the former were unified, well organized, and well financed. Their measure was sponsored by the four major farm organizations of the state, the State Chamber of Commerce, and many local chambers of commerce.

THE FEDERAL PLAN PREVAILS

In the November elections of 1926, the federal plan of representation in the State Legislature carried in all counties of the state with the exception of Los Angeles. Under this plan no county may have more than one state senator, and not more than three counties may be combined in a single senatorial district.

In accordance with mandatory provisions of the federal plan constitutional amendment, the Legislature in 1927 redistricted the state. Feeling was high, however, and as a consequence, the reapportionment bill was held up by referendum petition. In the November elections of 1928, San Francisco joined

Los Angeles in voting against the reapportionment bill, and the State Federation of Labor actively joined in the opposition for the first time. This was not sufficient for defeat of the bill, however. It was upheld with 61 per cent of the total votes cast in its favor.

Subsequent to 1928, sectional feeling in relation to the federal plan of representation in the Legislature was not sufficient to prevent regular reapportionment of assembly districts after the census of 1930 and the census of 1940. It has been sufficient, however, to create much dissatisfaction among groups and interests adversely affected.

As to the effect of the federal plan in accomplishing its objectives, there is this to say: the primary purpose of the federal plan amendment was to guarantee to California agriculture, rural industries, and related business activities, adequate representation in the State Legislature. The principal concern was to establish a balance in the Legislature between metropolitan centers, and areas which are still predominantly rural in character. Designed to favor regions where farming and nonurban occupations prevail, the plan has more than achieved that purpose. It is significant, however, that the San Joaquin Valley, considered as a regional unit, as well as Los Angeles County, is seriously underrepresented in the State Senate from the standpoint of both farm population and annual value of farm products.

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Geographic Basis for a Unicameral Legislature

By W. W. MATHER

FOR many years, the basic factor in California's government and politics has been the fact that California is a miniature United States of America. In place of the Appalachian Mountains we have the Coast Range; in place of the Sierra-Rocky Mountain Plateau we have the Eastern Sierra "backbone" of the state; in place of the great Mississippi Valley we have the Sacramento-San Joaquin Central Valley, likewise with its river system reaching tidewater in one principal outlet.

The sectional conflicts of this state are much deeper and more persistent than political party divisions. The spectacle of northern against southern California, running back beyond American occupation; rural and small-town areas against urban; Los Angeles in rivalry with San Francisco; and the City of Los Angeles against the remainder of the state—these, like the poor, we seem to have always with us.

Then too, these rivalries are sharpened and deepened by the consequent varying economic interests of a state which in two generations became an oil, a motion-picture-making, and a playground region for the Nation, in addition to developing lumber and other important resources and experiencing a marked growth of manufacturing and commerce. Hence, employer-employee controversies, together with those of competing pressure groups, again cut much more deeply than party labels or lines.

Finally, the presence of thousands of oldsters from Iowa and other points east who come to California to die and then, thanks to our salubrious climate, postpone for some time that deed, leads to the politics of old-age pensions with their attendant rackets and lunacies.

FEDERAL PLAN NOW IN EFFECT

Out of this welter of conflict there emerged two decades ago a so-called "federal plan" of state representation, fostered by the State Farm Bureau and supported by every county in the state in the decisive election thereon, even by Los Angeles County outside Los Angeles City. This is a travesty of representation and is in no sense a true federal plan. First, the counties are not bodies with inherent sovereign powers, as are the states; they are but geographic agents of the state. Second, we have a number of "rotten-borough" counties, because of the decline of the once populous mining counties. By the Census of 1940 twelve counties¹ had a population of less than 10,000; twenty-two, less than 20,000; and twenty-nine, or exactly one-half, less than 30,000. Yet no county can have more than one senator, and not more than three counties can be put into one senatorial district.

Hence, we have Los Angeles County, with about 40 per cent of the entire population of the state and producing about 50 per cent of the revenues, given one senator. He comes from the city,

¹ For population data, see *Handbook, California Legislature, Fifty-Sixth Session, Nineteen Forty-Five*, pp. 150-59. For present districts, congressional, senatorial, and assembly, *ibid.*, pp. 14 f., 57, 180 f. For data on legislative sessions, *ibid.*, pp. 174-77. For data on actions of Legislature, *Journals of Senate and Assembly* for session of 1941; also *The Sacramento Bee*, issues of Jan.-June 1941, 1943, 1945; also *Final History of Senate*, and same for Assembly, 1941, 1943, 1945. For historic background and legislative struggle, Thomas S. Barclay, "Reapportionment in California," reprinted from the *Pacific Historical Review*, June 1936.

and thus more than one million people outside the city limits have no senator. The Twenty-eighth Senatorial District is composed of the counties of Mono and Inyo, with a total population in 1940 of 9,924. Its senator counts exactly the same in voting as the one from Los Angeles County, with 2,785,643.

When the State Senate a few years ago passed the bill outlawing "hot cargo" and secondary boycotts by a vote of 34 to 5, the five senators in opposition represented nearly 900,000 more people than the thirty-four did. Only slightly less absurd is an Assembly with thirty-two representatives from one county of less than ten thousand square miles.

For years, California has suffered from the "rural gerrymander." Hence, conservatism, provincialism, and "stand-pattism" have been entrenched in the Legislature. The "buckpassing" of a bicameral system has tended to obscure somewhat the basic causes of such sessions as that of 1945. Finally, the present system gives northern California thirty senators, as there are but ten southern counties as recognized in some laws. So the northern California tail, having less than half the people of the state, will continue to wag the California dog as long as the present system endures. Can a unicameral legislature, however, in a state so diverse and with such deeply conflicting groups, be established?

Two basic reasons exist for a unicameral legislature. First, the fixing of responsibility on a one-house body with adequate power is essential if California is to meet squarely such problems as those presented by Governor Warren and side-stepped by the Legislature. Second, in this age of speed of travel and communication, the system providing a second house to "rehash" the work of a first is slow, wasteful, ineffective, and outmoded.

BALANCED REPRESENTATION PROPOSED

The question persists: how reconcile deep-lying, basic rivalries that now find a degree of balance in the absurdities of the present bicameral system? A study of the California situation reveals two focal points of city or metropolitan power: the Bay District of San Francisco and Oakland, with their environs, and the metropolitan area of Los Angeles. The greater part of the northern and much of the central portion of the state form a back country for the Bay District; while the southern part of the Central Valley region and most of southern California form the back country of Los Angeles. That gives us four basic regions. Hence, the following plan:

1. Establish a unicameral legislature of either 48 or 96 members. From the standpoint of size, 48 are preferable; but from the need for adequate committee work, 96 seem necessary. These numbers are chosen because they contain so many factors and thus lend themselves to minute division into twos, threes, and fours without fractional remainders. However, any multiple of 8 will do fairly well, as 64.

2. Allot 24 representatives to the Bay District, 24 to the Los Angeles metropolitan area of densest population, 24 to northern and central regions, and the remainder to the southern counties outside of the Los Angeles area.

3. Disregard present county lines for the two city areas as being unrealistic—remains of an agricultural and mining past. Include portions of San Mateo and possibly Marin and Contra Costa counties along with San Francisco and the Alameda metropolitan area. Similarly, the southwestern part of Los Angeles County would form one district, including such cities as Long Beach, Glendale, Pasadena, and Santa Monica in such subdistricts for choosing one representative each as seem desirable.

4. For the two back-country regions the Congressional District Map is suggestive, especially if combined with the map of Assembly Districts, as they both are on a partial population basis. The present population figures of the Congressional Districts show a range of from less than 200,000 to more than 400,000 people per district, and the Assembly Districts reveal wide differences. These are due to the almost total lack of any significant relation between county lines and economic interests. The details of such lines will prove no more difficult than the battles over reapportionment of each decade since 1900.

APPRAISAL

The merits of the proposed unicameral plan are: (1) direct responsibility to voters, with retention of present primary elections and the initiative and referendum; (2) the balance of representation which would insure us against domination by any single section or economic interest and would make unlikely control by a bloc, and which would compel those reasonable com-

promises which are the essence of representative government in a free society; (3) a more adequate representation for southern California and for the city areas, without destroying the strategic position now occupied by rural and small-town members. The arguments against a unicameral legislature are those of sentiment, tradition, and ingrained conservatism.

As to the chances of adoption of such a plan, the writer is under no illusions. Such epithets as "academic," "impractical," and "visionary," not to mention that darling of all true conservatives—"crackpot"—will be forthcoming. However, a one-house legislature could not be worse than the present system with its glaring inequities, and it is in line with the demand for "streamlining" Congress which is now receiving national and congressional attention. The basic reasons for a two-house legislature in a federal union, one house representing the federal principle and the other, the popular principle, do not obtain in California, where counties are merely geographic areas made into political agents of the state government and with few, if any, independent interests.

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Industrialization in Southern California*

By PHILIP NEFF

THROUGHOUT economic history, a significant phenomenon which has manifested itself is the tendency toward regional economic specialization. Economists since Adam Smith have concerned themselves with the theory of geographic and functional specialization, but statistical examination of the phenomenon has been somewhat tardy. Current efforts to hasten regional economic growth, to carry industrial development artificially beyond the precarious early stages and develop economic maturity in shorter and shorter periods, require an examination of the causes for economic growth so that these causes may be supported. These efforts consist of both governmentally financed "basin development" projects (e.g., the Central Valley) and the promotional efforts of pressure groups (e.g., chambers of commerce). Endeavors of the latter sort are even today more important than the former in terms of total effect on the pattern of regional economies.

Two classes of costs influence the development of industries—those associated with production and those associated with marketing. The location of industry is ultimately determined by both of these cost factors, though in some cases one group is of such overwhelming significance that the other seems of little relevance—"resource-oriented" and "market-oriented" industries. Thus one group of factors affecting the location and growth of industry is that which may be designated production costs. Their significance varies from industry to industry, but only in

exceptional cases are these costs completely irrelevant.

The significance of particular production costs varies over time, though only infrequently do these costs as a whole shift to or from a position of critical significance. However, it is essential that studies of such costs be made over time, since divergent trends as between areas may result in a changing competitive position between the regional industries. Restriction of this paper to a consideration of costs in those industries which are neither market- nor resource-oriented, to "foot-loose" industries, could be justified if the single aim were to examine causes for differential regional rates of growth in industry and thereby to assist in foreseeing the future industrial pattern of the area. However, even in instances where resource or marketing problems have primary significance, protracted differentials in costs may result from the existence of peculiar regional conditions or practices that are controllable. Therefore, the study not only of foot-loose industries but of others is justifiable if concern is with industrialization in general rather than industrial location alone.

AREAS STUDIED

Industrial areas to be considered are Los Angeles and San Francisco, the two manufacturing areas of California; Detroit; Cleveland; Chicago; and Pittsburgh. Arbitrary decisions were made in the choice of these areas, for defensible arguments exist for comparing the California areas with any or with all of the industrial areas of the Nation. The areas were chosen partly on the basis of the rate of growth in manufacturing, partly on the basis of some simi-

* This article represents a condensation of a more comprehensive study to be published in 1947 by the John Randolph Haynes and Dora Haynes Foundation.

larity in economic pattern, and finally because of the existence of some competition between these areas as alternative industrial sites. The period over which costs will be examined is the 1929-39 decade. This period was chosen because: first, it embraces at least one complete business cycle; second, it is a recent period, so that it is possible to check the conclusions derived from statistical data with experience of businessmen; finally, it is a peacetime period and it is therefore probable that cost conditions are a better indication of future costs than costs of the turbulent war years would be.

PRODUCTION COST DIFFERENTIALS

A measure of production cost differentials; particularly those in labor costs, may be derived from data reported by the Census of Manufactures. From these data it is possible to compute value added per wage earner and value added per dollar of wages. These two resulting ratios provide a means by which, in general, differences in labor costs between areas may be established, and, therefore, a means by which one may determine the relative competitive position of the areas on the basis of this one cost factor.

Economic theorists have established certain principles of factor combination which underlie business decisions. These principles are so well known that detailed examination here is unnecessary. The basic assumption is that businessmen tend to combine homogeneous groups of all resources in such a way that the marginal product of each resource in real terms is equal to the marginal cost of that resource. If it is possible to establish a differential in the productivity of a factor in the same industry in different areas, it is possible to conclude, other things remaining equal, that those areas in which productivity

is greater are the areas most favorably situated competitively.

However, the possibility of other things not being equal is extremely great. First, the cost of factors may be different (wage rates may be different) and usually are: the west coast is a relatively high wage rate area. Second, the advantage derived from high output per worker may be offset by low productivity of other factors of production. Third, differences in the returns to labor may arise out of the heterogeneity of industrial groups between the several areas. For example, the food and kindred products industry may not be the same in Los Angeles as in Detroit. Finally, though the same industries exist in each area, they may be at one of a number of levels in the productive structure, either at an extremely early stage (processing very raw materials) or at one of the later stages (processing semifabricated materials near the consumer level).

These variations may account for differences in output per laborer and in value added per dollar of wages. Nonetheless, means are available which make it possible to account for such exceptions. It is not very likely that the productivity of labor as between areas differs because of differential productivity or cost of capital or management in view of the *relative* mobility of these resources within a single political unit such as the United States, while data are available which indicate that prices for like goods (including labor) in general move in the same direction and at the same rate in each area. Therefore, though one cannot be certain that differences in value added per laborer or in the ratio of wages to value added are a consequence of wage rates or labor productivity, it is probable that significant and persistent differences are associated with labor productivity and costs.

GROWTH OF MANUFACTURING

In a previous study of the Haynes Foundation the position was taken that the Los Angeles area was approaching some degree of economic maturity throughout the prewar period, since the relative importance of manufacturing to the area increased constantly, while the relative importance of the extractive industries steadily declined.¹ Manufacturing, much of which is not directed toward providing for the immediate needs of the population, lags behind other activities in undeveloped areas; but with the growth of population and income and the increased integration of the economy of the region with that of the parent, a more rapid development of manufacturing typically occurs. In southern California from 1899 to 1939 the rate of growth in manufacturing was much more rapid than in most other sections of the country, though the rate of change was decreasing over the entire period.

The main explanation for this rapid growth of manufacturing in the Los Angeles area is to be found in the population increase and the consequent growth of the local market. The importance of population growth to the development of manufacturing has been emphasized frequently.² Population growth, however, can account for the rapid industrialization of a region only up to a certain point; beyond that point, the further development and specialization of manufacturing is governed as much by production-cost fac-

tors as by expanding market. Part of the cause for the rapid growth of manufacturing in southern California, and certainly the basis for further specialization, is the differential advantage attaching to some manufacturing operations in the west.

VALUE ADDED PER WAGE EARNER

In Chart 1, series are presented describing value added per wage earner in all manufacturing, in durable goods, and in nondurable goods in the six areas from 1929 to 1939. A number of significant facts are suggested by these data. San Francisco, in general, has the highest output per worker in all manufacturing. This is not due to a particularly favorable situation in either durable or nondurable goods, but to a relatively high output per worker in all fields. In all manufacturing, output per worker in Los Angeles decreased over the decade, and the relatively favorable position of Los Angeles in 1929 was primarily a result of the high output per worker in nondurable goods; for in durable goods, output per worker was low. Generally, by the end of the decade, the position of Los Angeles had deteriorated relative to its position in 1929, though Los Angeles maintained a fairly high output per worker, second only to San Francisco in all manufacturing and in approximately a median position in the durable and nondurable goods fields.

The extreme fluctuations of output in a heavy manufacturing area such as Pittsburgh make for wider fluctuations in value added per worker than is characteristic elsewhere. Pittsburgh seems to be an area in which manufacturing as a whole is so heavily weighted with iron and steel and machinery products that its comparison, except for particular industries, with the other areas is not entirely valid. The concentration of durable goods industry in Cleveland

¹ Frank L. Kidner and Philip Neff, *An Economic Survey of the Los Angeles Area*, Los Angeles: The Haynes Foundation, 1945.

² Cf. Colin Clark, *The Economics of 1960*, London: Macmillan, 1944; Glenn E. McLaughlin, *Growth of American Manufacturing Areas*, Pittsburgh: University of Pittsburgh, 1938; and W. Krause, "Regional Shifts in Industry," unpublished manuscript, Harvard University, February 1946.

Value Added per Wage Earner, 1929-1939

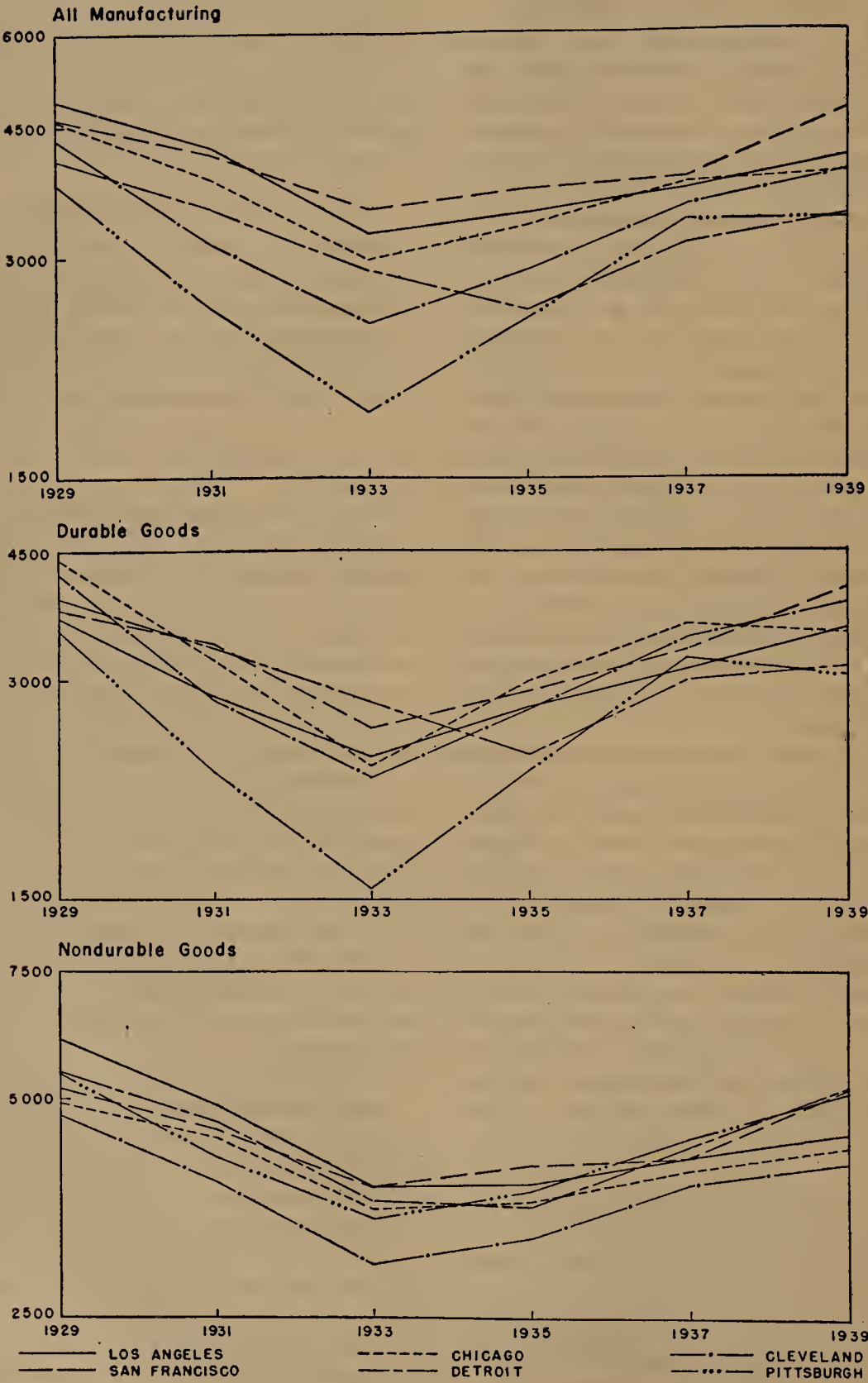


CHART 1.

seems justified on the basis of its rather high output per worker in the decade, surpassed only by San Francisco in 1939. Output per worker in nondurable goods in Cleveland, however, is uniformly lower than in any other area.

RATIO OF WAGES AND COST OF MATERIALS TO VALUE ADDED

Information somewhat analogous to that presented in the first chart is to be found in Charts 2, 3, and 4, which show the ratio of wages to value added in each of the six areas and the trend in these ratios. The difference between this material and that dealing with value added per wage earner in Chart 1 arises out of the fact that differences in wage rates affect these series, whereas they have no effect whatsoever on value added per wage earner. The favorable position of Los Angeles and San Francisco in all manufacturing is apparent from the series in Chart 2, for both the actual and the trend of the ratio of wages to value added are lower than in any of the other areas. The trend in Los Angeles throughout its length is 4 per cent lower than in Chicago, and though it rises at a slightly more rapid rate than in any of the other areas except Detroit, the position of Los Angeles in all manufacturing remains relatively favorable. In nondurable goods production, the position of Los Angeles is rapidly becoming more similar to that of other areas, since the ratio of wages to value added as described in Chart 4 slopes very steeply upward; on the other hand, in durable goods manufacture, the position of Los Angeles, though at the beginning of the decade somewhat unfavorable, was improving constantly throughout the period. Charts 3 and 4, like Chart 1, indicate that Cleveland was in a favored position in durable goods manufacture, but in a

significantly unfavorable position in the nondurable goods field.

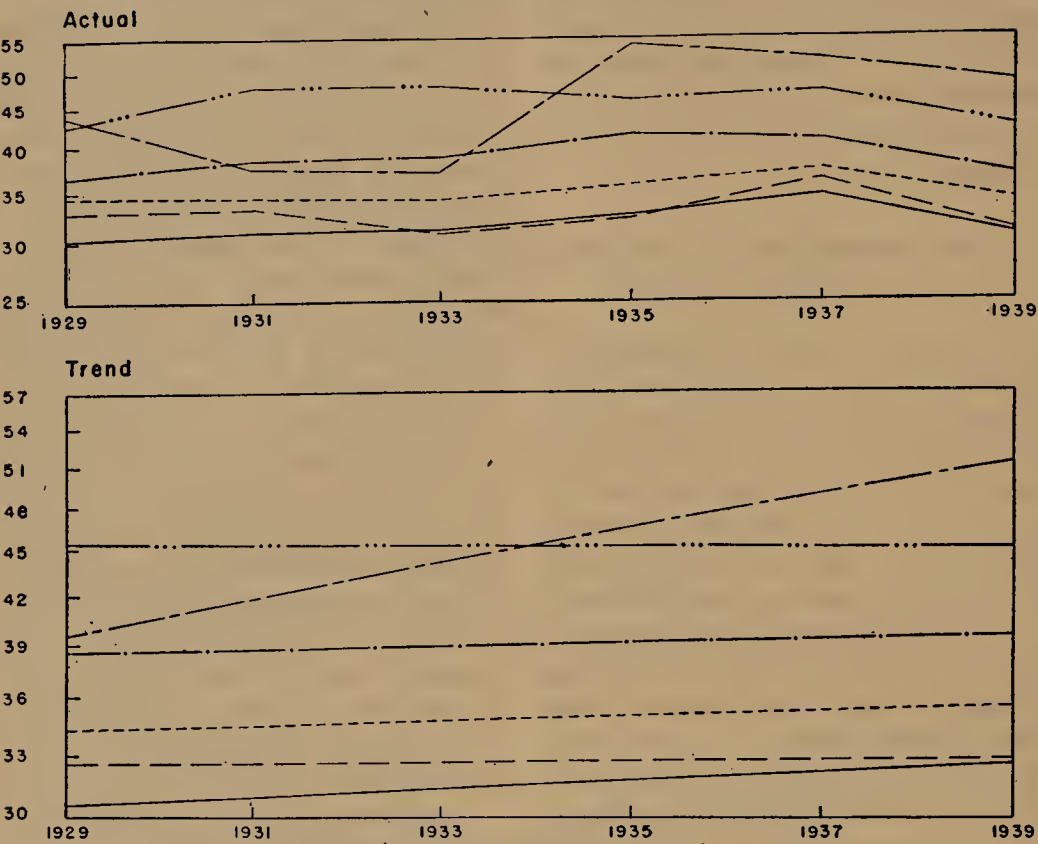
The second pair of series on Charts 2, 3, and 4 presents cost of materials as a per cent of value added. These percentages must be interpreted in a somewhat different manner from the wage series because the ratio of cost of materials to value added may vary for more reasons than may the ratio of wages to value added. Of exceptional importance is the fact that nonintegrated industries concentrating on the final processing of materials that have not yet reached the final stage of fabrication will have very high material cost ratios, while differences in the stage at which manufacturing operations are carried on tend to affect the wage cost ratio to a much smaller degree. As an example, the high and steeply increasing per cent of value added which cost of materials represents in the durable goods field in Detroit may be cited.

This ratio in Los Angeles is very much below that of the other areas, reflecting the importance to the area of branch plants, the chief function of which is the assembly of materials manufactured elsewhere. On the other hand, in nondurable goods, materials in Los Angeles typically represent a much higher proportion of value added than elsewhere, and the trend, as in the case of labor cost, is decidedly upward. Regardless of the cause of this movement of both labor and material costs in nondurable goods, the position of Los Angeles as a nondurable goods center is deteriorating as compared with the other areas. The fact that the trend of both ratios is upward in the Los Angeles area in nondurable goods indicates that these upward trends cannot be a result of a peculiar position in the productive structure alone.

IRON AND STEEL INDUSTRY

Though the series presented in Charts

Wages as a Per Cent of Value Added
All Manufacturing, 1929-1939



Cost of Materials as a Per Cent of Value Added
All Manufacturing, 1929-1939

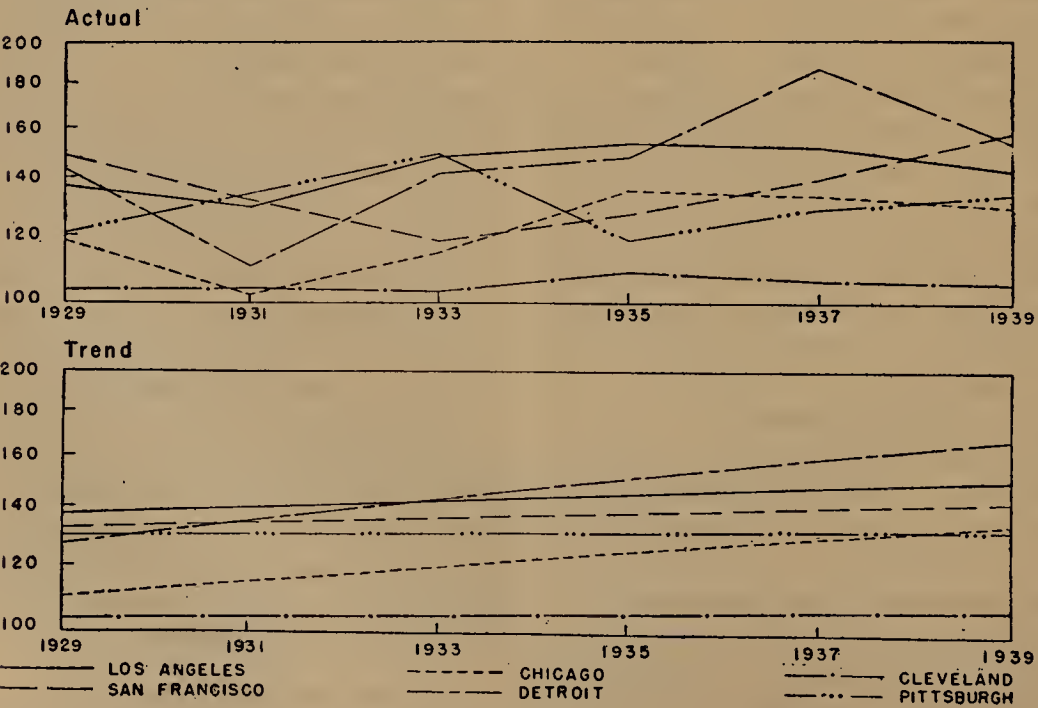
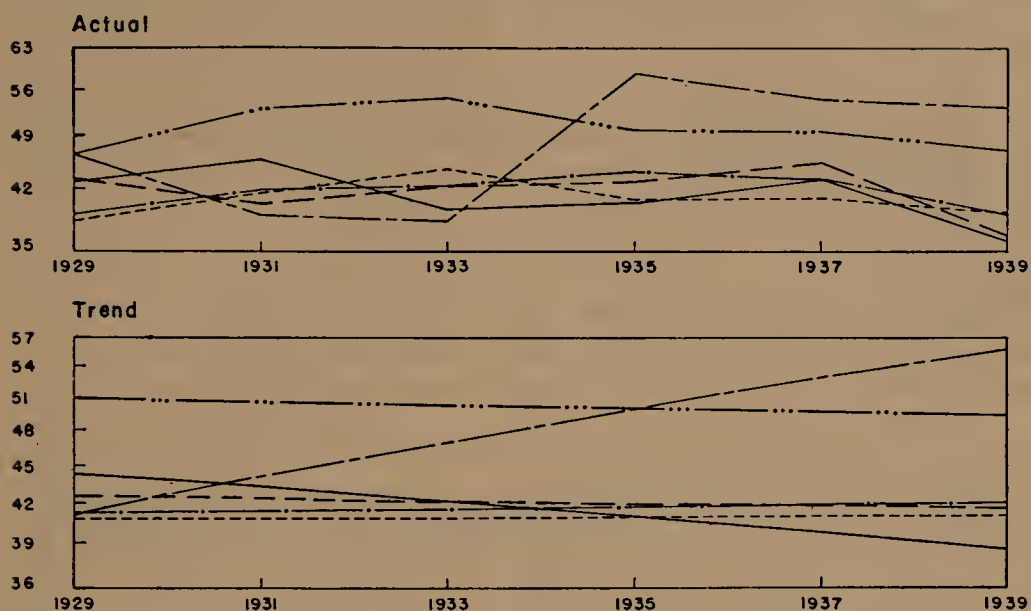


CHART 2.

Wages as a Per Cent of Value Added Durable Goods, 1929-1939



Cost of Materials as a Per Cent of Value Added Durable Goods, 1929-1939

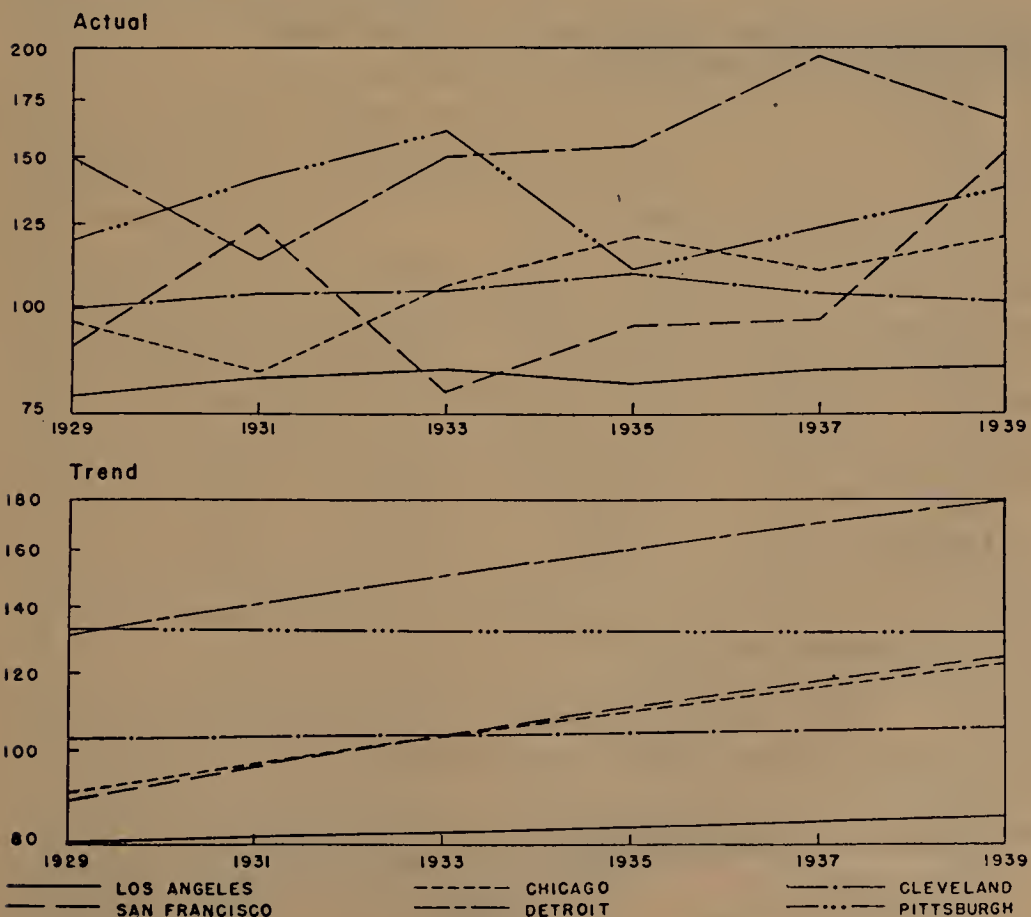
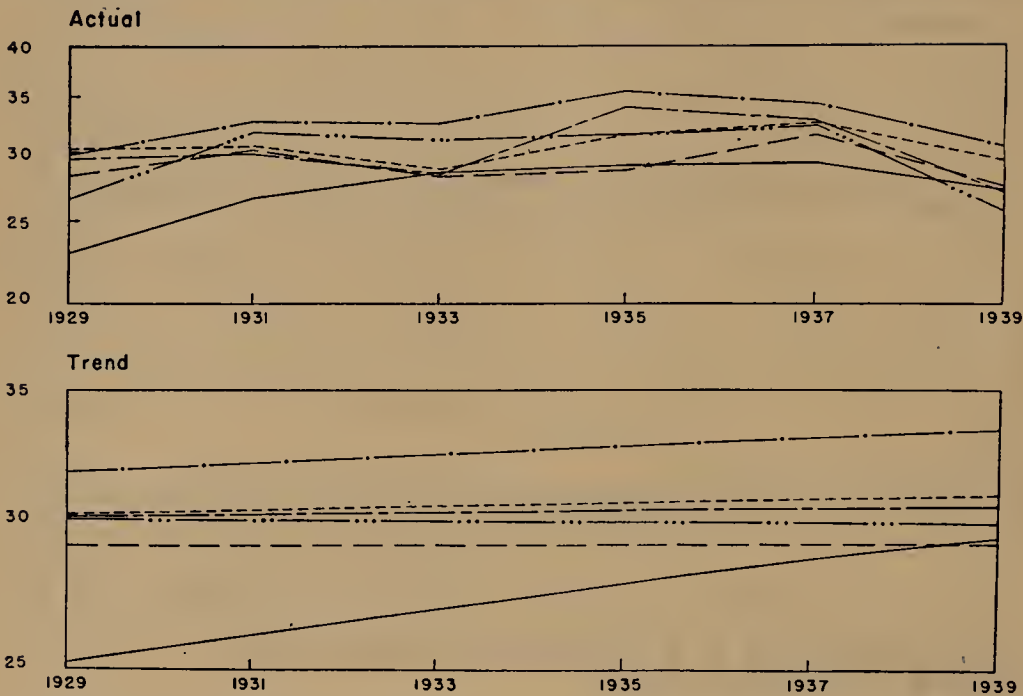


CHART 3.

Wages as a Per Cent of Value Added
Nondurable Goods, 1929-1939



Cost of Materials as a Per Cent of Value Added
Nondurable Goods, 1929-1939

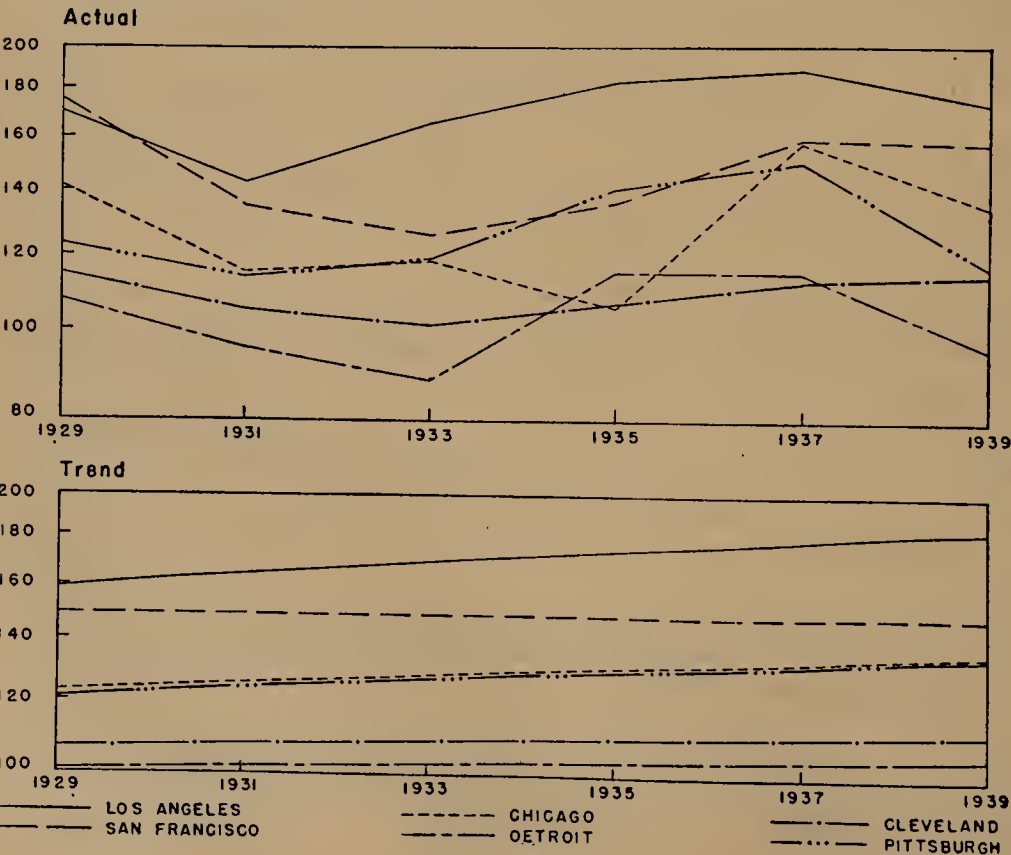


CHART 4.

1 through 4 are useful in analyzing, in a rather gross manner, the cost position of the areas in manufacturing as a whole and in the two large subdivisions of manufacturing, much improvement can be made in the analysis by a study of industrial groups and particular industries. For purposes of demonstration, Charts 5 and 6 are presented, which show the position of the iron and steel industry as a whole and the position of one classification within the iron and steel products group—structural and ornamental metalwork.

This industry is one of the most important in the United States, employing more workers than any other single group except textiles, and providing the basis for the existence of a number of other activities. In this industry, many important changes have occurred in the last twenty years. One is the shift in the emphasis from heavier to lighter steel products; another is the increase in the use of open-hearth furnaces; and a third, the invention of continuous strip mills which vastly increased the productivity of labor.

This industry is, of course, largest in Pittsburgh and Chicago and smallest in Los Angeles and San Francisco. Nevertheless, the industries are quite comparable in the six areas because of the fact that, with the exception of Pittsburgh, about the same classifications existed in each of the areas, ranking in roughly the same order. Furthermore, the dispersion of the individual cost ratios about the ratio for the group is extremely small, so that differences in the wage ratio of more than 2 or 3 per cent could only very accidentally be a result of differences in the composition of the industries in the different areas.

The average size of plants in the areas seemed to be increasing in the decade studied, while average output per wage earner in general declined. However, the significance of the de-

crease in output per worker is offset by the fact that ratios of wages to value added throughout the years had a tendency in most areas to remain constant or decline. The decline in output per worker is primarily a consequence of decreased hours per worker per week, since hours decreased between 1929 and 1939 from 54.9 to 34.6 in the Nation as a whole. Actually, therefore, output per man-hour must have increased in the face of increased hourly earnings, decreased hours, and the stability in the ratio of wages to value added.

Of great significance is the fact that output per worker in San Francisco is substantially higher than in Los Angeles, while the ratio of wages to value added is lower in Los Angeles than in San Francisco. This is the result of the lower wage rates paid in Los Angeles. Chicago, where the iron and steel industry is similar to that in San Francisco in terms of type of product, has a high output per worker, but the ratio of wages to value added indicates that Chicago in this respect is somewhat less favorably situated than Los Angeles and about equal with San Francisco. Cleveland, an important light steel production center, appears to be unfavorably situated as compared with San Francisco, Chicago, and Los Angeles, with a lower output per worker and a higher ratio of wages to value added.

Material cost ratios are quite similar, especially in Detroit, San Francisco, and Los Angeles, where practically the entire industry is a "products" industry with a great deal of fabrication as opposed to the basic industry. In Cleveland, Chicago, and Pittsburgh, where basic iron and steel manufacture is of more importance, these cost ratios are higher.

METALWORK

Chart 6 presents comparable mate-

Iron and Steel and Their Products, Not Including Machinery,
1929 - 1939

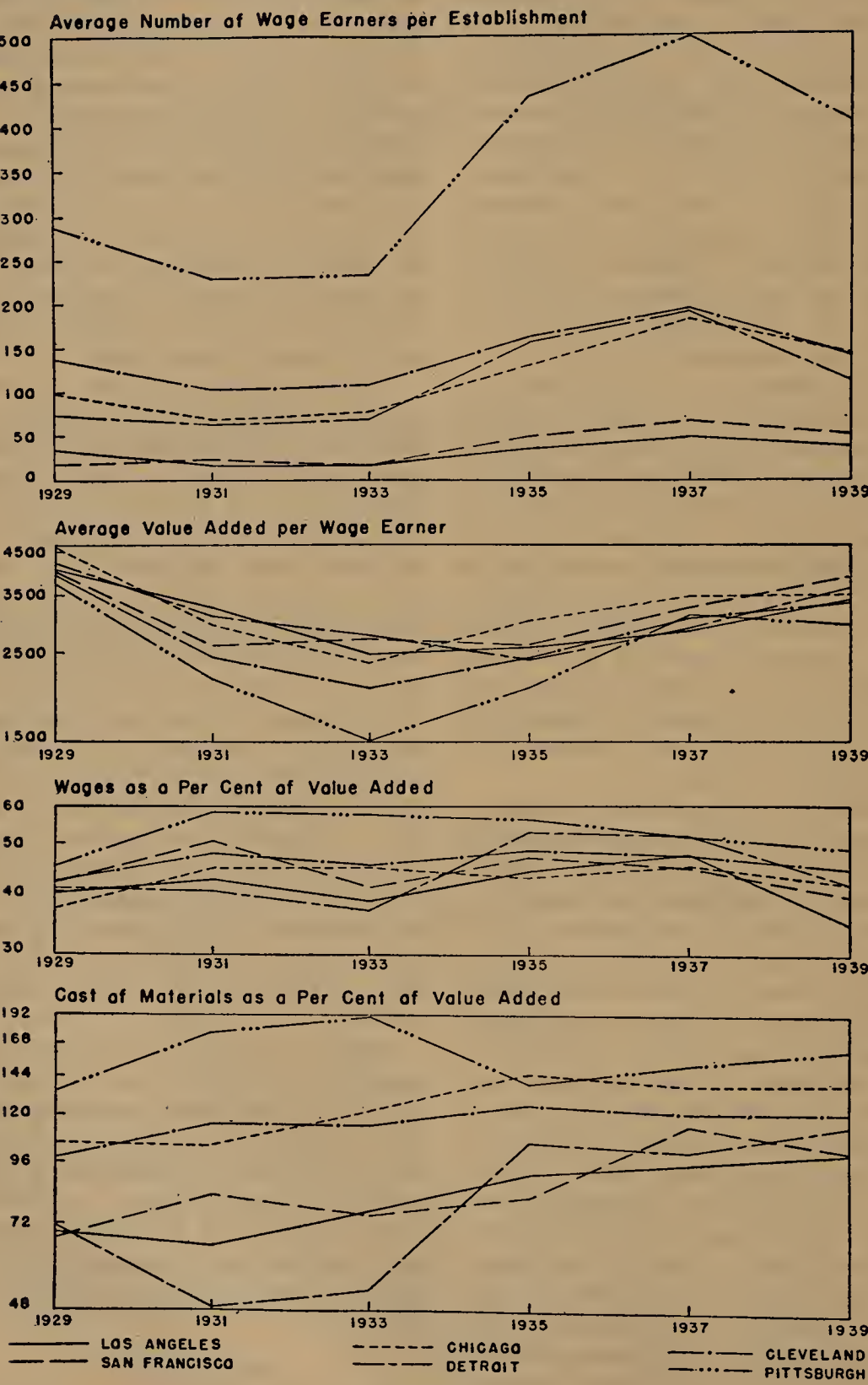
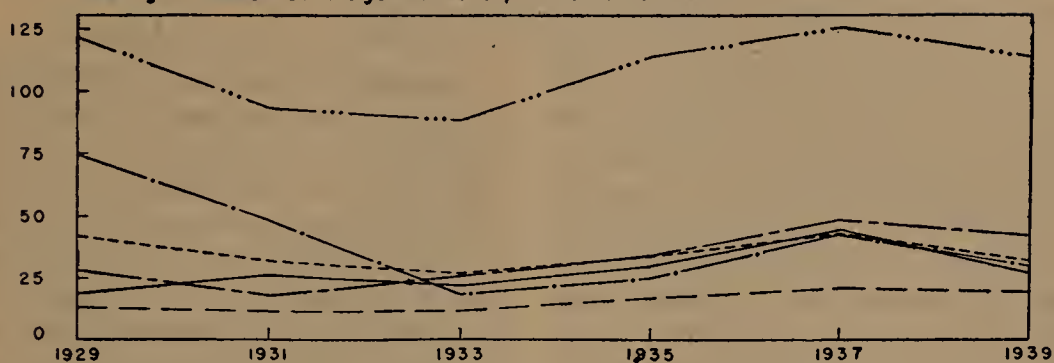


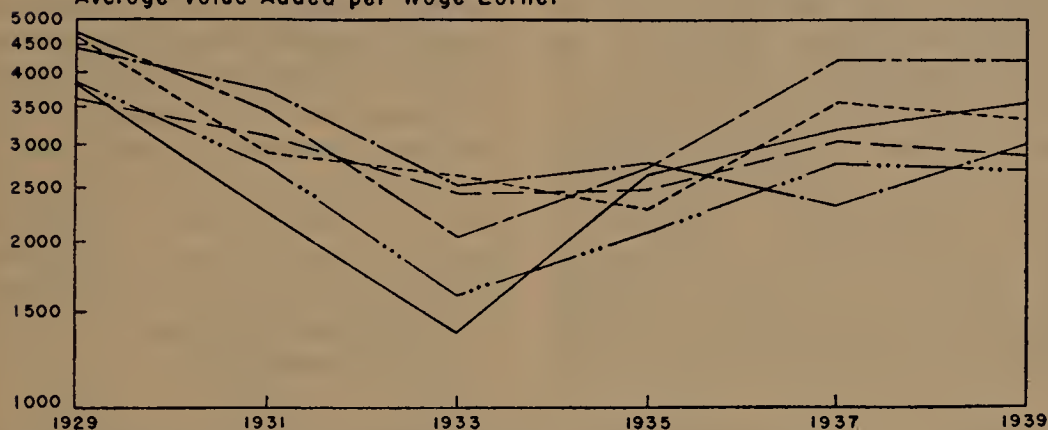
CHART 5.

Structural and Ornamental Metalwork, 1929-1939

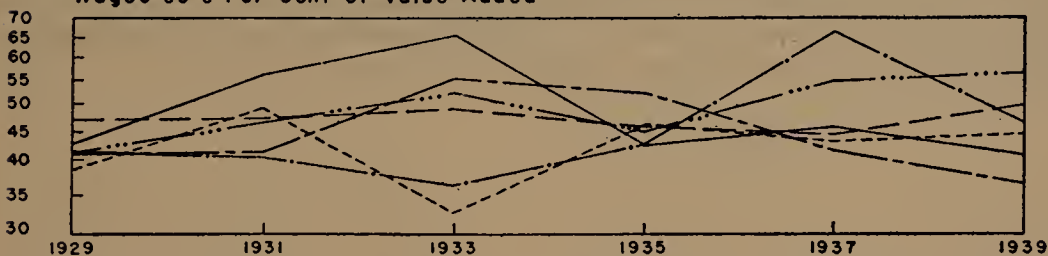
Average Number of Wage Earners per Establishment



Average Value Added per Wage Earner



Wages as a Per Cent of Value Added



Cost of Materials as a Per Cent of Value Added

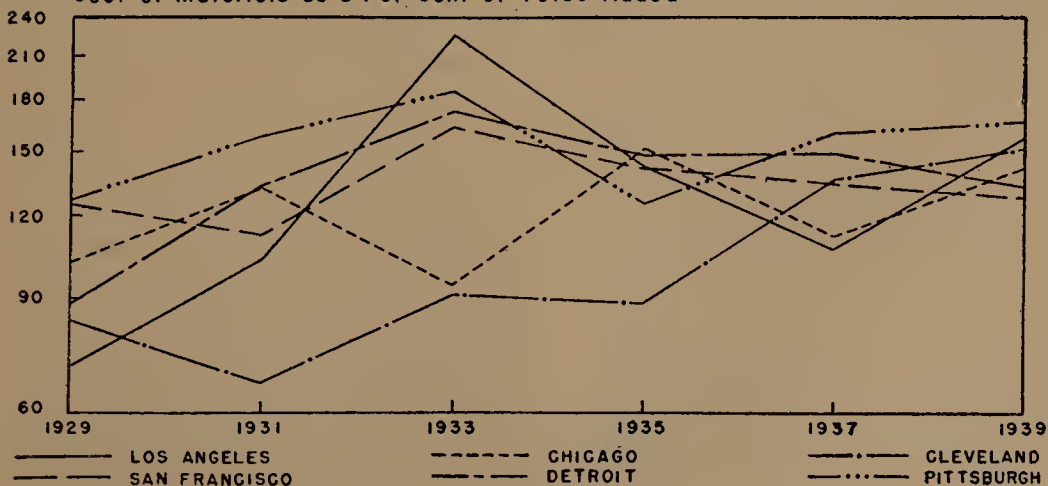


CHART 6.

rial for one classification in the iron and steel products group—structural and ornamental metalwork. Firms were of about the same size on the average in all areas except Pittsburgh. Value added per wage earner fluctuated violently, as might be expected because of the cyclical character in the demand for the product. By the end of the decade, output per worker in Los Angeles was high as compared with the other areas, while the ratio of wages to value added, though at the beginning of the decade very high, was low from 1935 on. Cleveland's position throughout the period deteriorated, since output per worker fell very much during the depression years and never recovered, while the ratio of wages to value added rose very significantly. Until 1935, in this field the position of Los Angeles was quite inferior, with low output per worker, high wage costs, and very high material costs; but since that year, the

position of Los Angeles has been quite favorable.

POSITION OF LOS ANGELES

Detailed examination, similar to that presented above of each of the industrial groups in the six areas, reinforces the conclusion with respect to the position of the California areas drawn from the durable and nondurable goods data. The position of Los Angeles in the manufacture of durable goods improved consistently throughout the last prewar decade; while in nondurable goods, in general, the position of Los Angeles, though favorable throughout the period, was by no means improving, but, on the contrary, becoming less favorable. As this area continues to grow, one may expect the relative importance of durable goods manufacture to increase, providing more competition to eastern manufacturers of durable goods than heretofore.

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Problems of the Postwar Capital Market

By CECIL L. DUNN

THERE is an increasing tendency to segregate investment into two main blocks, one of which is relatively free of risk and the other more hazardous. The size of the former apparently has undergone steady expansion in recent years. The funded obligations of established firms, preference shares which are often indistinguishable from such obligations, and even their common stocks have become increasingly attractive to investors seeking security. The inherent element of risk is overlooked, and only those funds which are employed by relatively untried firms are regarded as "venture" capital.

Although this distinction is quite commonly made, it has little value for this study. Its use would introduce the necessity for classifying investments in accordance with a scale of the risk involved, a process which is virtually impossible, and which would require the introduction of judgments which might cast doubt on the conclusions.

Our definition, therefore, is the traditional one, now so little used—venture capital is equity capital. If the hazards of ownership are present, the essential characteristic of a venture is present.

However, an important distinction is that which exists between speculative risks and the normal hazards of a permanent venture. An enterprise of the latter type, representing the effort of its proprietors to make long-run profits, will be managed with a view toward establishing a place in the market and accumulating resources of sufficient size to protect it from the consequences of cyclical fluctuations, unrealized expectations, and errors of judgment. It will therefore tend to be free from that internal hazard which rises from the

desire to make a quick profit on speculative appreciation. It is with these normal business risks that we are concerned, as speculative ventures are of little significance in the "long pull" of industrial development.

DISADVANTAGE OF SMALL BUSINESSES

A major portion of our interest will be directed toward the requirements of new, and especially small, businesses, as it is here that the risk element is present, or thought to be present, in such a degree as to influence the judgment of the ordinary investor.

It is much more difficult for small enterprises than for large ones to secure capital. The vast technological changes that have taken place have widened the outlook of private investors, and they tend to place their money in what they consider the safe security issues of large corporations or government bonds. "Thus the large concern is generally able to secure money *indirectly* from the individual private investor far more economically than the small concern can obtain it directly."¹

The conclusion to be drawn is that venture capital for small enterprises must come from the personal resources of their proprietors, from earnings, or from a variety of external sources which are poorly organized and unduly expensive.

This study will trace the extent to which these factors are important to the economic life of California, and appraise, in relation to its well-being, the many proposals which have been made

¹ Donald Wilhelm, Jr., "How Small Business Competes for Funds," *Law and Contemporary Problems* (Duke University Quarterly), Vol. XI, No. 2, p. 220. See also W. C. Louchheim, Jr., "The Problem of Long Term and Equity Capital," *ibid.*, p. 248.

to find solutions for the problems which are inherent in them.

ORGANIZATION OF THE CAPITAL MARKET

Recent years have witnessed many changes in the organization of the market for business credit. Some of those changes, especially the growth of factoring and the growth of term lending by banks, are to be regarded as the formalization of practices which had been developing informally for some time. Although credit of this kind is usually regarded as resting on a secured obligation, a portion of that security is the real capital of the business, and the problem of credit therefore bears a close relationship to the problem of equity capital. Any business must normally have access to both, and the supply of credit must be looked upon as a part of the problem of capital for postwar California businesses.

The capitalization of prewar California industry is very well described, at least insofar as major businesses are concerned, by the usual sources of investment data. The influence of the war period is reflected in the data published by the Securities and Exchange Commission in its "Survey of American Listed Corporations," and in the reports of the Bureau of Program and Statistics of the War Production Board.

These reports are of particular value because they detail changes in the capital structure of individual firms, indicating the source of the funds employed, and because they give a very complete breakdown of wartime changes in industry in California. The names of firms, industry classifications, nature of facilities, locations, and source of funds all are detailed, giving a complete record of the war experience of the firms participating in the war production program. Data on the war experiences of other firms are more difficult to secure,

and have to be sought from the organizations themselves.

PROSPECTIVE POSTWAR OPERATIONS

Data relating to prospective postwar operations and financing have been collected by a variety of agencies. The Bureau of Foreign and Domestic Commerce of the United States Department of Commerce has issued recent bulletins on the capital outlay plans of different groups of industries. A survey of business plans of particular interest to California was published in February 1945 by the Federal Reserve Bank of San Francisco. A summary of the findings of the survey appears in Table 1. Chambers of commerce and the local committees of the Committee for Economic Development have surveyed the plans of their members and of firms within their communities; banks and investment banking firms have discussed, and in some cases formulated, definite plans for individual firms. Prospective action, of course, must be interpreted in a different light than actual accomplishment, but a summary of the estimates through these methods may be interesting.

A second approach to the postwar capital market may be made through estimates of the volume of postponed investment in different industries. Although it is difficult to justify such estimates without reservation, they may be regarded as reasonable if such basic assumptions as the rate of population growth, the stability of locational quotients, and the persistence of trends in technological development and costs are accepted. In fields such as housing and retail and wholesale trade, in which the persistence of demand is a common-sense proposition, such estimates may have a high degree of validity; but a conclusive estimate by this method of investment in industries which are new to the state is an obvious impossibility.

TABLE 1—ESTIMATED POSTWAR OUTLAYS OF WEST COAST MANUFACTURERS^a
By selected industry groups

Industry	Total Outlays ^b (millions of dollars)		Purpose of Outlays (per cent)						Source of Funds (per cent)		
	Mini- mum	Maxi- mum	Pur- chase of govern- ment owned plant and equip- ment	New plant con- struc- tion	Struc- tural addi- tions and repairs	Re- tool- ing	Accu- mula- tion of work- ing inven- tories	All other	Own re- sources	Banks	All other
Food and kindred products	26	36		48	23	10	3	16	72	25	3
Lumber and timber basic prod- ucts	70	80		2	42	2	52	2	96	3	1
Furniture and finished lumber products	7	10		4	19	25	50	2	82	18	
Chemicals and allied products ^c	10	20	1	52	29	10	7	1	89	8	3
Products of petroleum and coal	21	29		60	40				43		57
Stone, clay, and glass products	5	10		14	43	33	2	8	64	35	1
Iron and steel and their products	16	19	3	23	13	22	28	11	76	21	3
Machinery (except electrical)	21	22	5	11	5	30	38	11	72	6	22
Electrical machinery	3	6	17	1	6	22	34	20	50	18	32
Aircraft and parts	77	139	2	2	4	18	54	20	47	34	19
Ships and boat building and repairing	2	9	10		31	26	28	5	42	58	
All other	33	53	1	25	18	12	22	22	71	13	16
Total	291	433	2	16	20	14	36	12	67	19	14

^a Excluding steel mills and nonferrous metals.

^b With respect to postwar outlays, reporting firms in each industry were classified in three groups: (1) those reporting planned outlays, (2) those reporting no outlays planned, and (3) those not reporting or uncertain. Maximum estimates are based on the assumption that firms in group 3 will spend proportionately as much as those in group 1; minimum estimates are based on the assumption that firms in group 3 are comparable with those in group 2 and will have no postwar outlays.

^c Including oil production, transportation, and storage, as well as refining. Source: Federal Reserve Bank of San Francisco.

In this connection it should be pointed out that some of the most widely entertained hopes for new industrial activity in California involve not only industries which are new to this region, such as steel, but others which are new to the whole realm of business: electronics, synthetics, and even large-scale small airplane production.

WARTIME CHANGES

Of first importance, then, is a review of the changing capital position of California industry during the war years. The pattern of both industrial organization and capital structure has been profoundly altered by the unprecedented need for expansion of manu-

facturing facilities. A tremendous volume of new investment has been required to provide necessary additions to plant capacity. In discussing the types of plant capacity created, this report utilizes the following definitions:

a) New Plant: Entire new establishments, including structures and equipment, located near existing plants of the operator or at a new location.

b) Expansions: Existing plants expanded to manufacture the same products as in peacetime.²

² Wherever the term "expansion" is enclosed in quotation marks, it will have the specific meaning given here. Otherwise, where the balance of the context is clear, it will be used to denote the total of all three types of plant capacity discussed above.

TABLE 2—SUMMARY OF FACILITIES EXPANSIONS AUTHORIZED TO MAY 31, 1944, CALIFORNIA COUNTIES, SOURCES OF FUNDS AND TYPE OF FACILITY EXPANSIONS
(000 omitted)

	Total All Plants	Source of Funds		Type of Expansion		
		Public	Private	Expansions of Old Plants	New Plants	Conversions
State Total California	\$1,335,698	\$931,931	\$403,767	\$337,270	\$891,610	\$106,818
Alameda	65,402	47,583	17,819	22,774	41,173	1,455
Calaveras	1,096		1,096	271	825	
Contra Costa	135,772	93,857	41,915	13,406	121,439	927
Fresno	1,852	793	1,059	354	1,463	35
Humboldt	1,343		1,343	1,218	83	42
Kern	9,857	4,408	5,449	248	9,564	45
Kings	1,826	274	1,552	106	1,720	
Los Angeles	632,821	369,452	263,369	138,203	397,623	96,995
Marin	17,422	17,350	72	72	17,350	
Monterey	3,179	2,000	1,179	884	2,295	
Napa	1,577	550	1,027		1,577	
Orange	2,534	230	2,304	511	1,998	25
Riverside	1,222		1,222	496		726
San Bernardino	115,678	112,319	3,359	2,813	112,798	67
San Diego	64,645	47,602	17,043	22,873	41,772	
San Francisco	62,449	50,415	12,034	18,304	43,165	980
San Joaquin	12,120	9,772	2,348	863	11,043	214
San Mateo	5,837	54	5,783	274	2,172	3,391
Santa Barbara	1,349	219	1,130	387	962	
Santa Clara	60,454	50,521	9,933	1,066	57,723	1,665
Solano	110,858	110,848		107,888	2,960	
Stanislaus	14,357	13,280	1,077	721	13,636	
Ventura	3,785		3,785		3,734	51
All others	8,273	404	7,869	3,538	4,535	200

c) Conversions: Alterations to existing plants either by structural and equipment additions, or the latter alone, to convert from normal peacetime production to the production of war goods.³

In the Nation as a whole, from July 1940 through May 1944, 13,126 plants ("new," "expanded," or "converted"), with a total value of 20.3 billion dollars, were added to productive capacity. Although some relocations of industrial plant occurred, the heaviest concentration of expansion took place generally in those areas where specific industries

³ "Geographical Distribution of Manufacturing Facilities Expansion," War Production Board, June 1, 1945, p. 1.

had chiefly operated before the war. Major types of war product manufactured in California were aviation gasoline, aircraft, ships, petroleum products, and processed foods, with the total value of authorized facilities in all industries amounting to \$1,335,698,000 in the period from July 1940 to May 1944.⁴

The greater expansion in California as compared with the Nation as a whole comprised the building and equipping of "new" plant, although the average cost (and presumably the amount) of "new" construction in the Pacific region was less than the national average.

⁴ *Ibid.*, p. 12.

From July 1940 to May 1944, 1,056 plants of various types were built in California; value of "new" plant was \$891.6 million, "expansion" \$337.3 million, and "conversion" \$106.8 million.⁵

Value of facilities expansions in California counties, source of funds, and types of expansion are shown in Table 2. Expansion was heaviest in shipbuilding, chemicals and petroleum products, and aircraft. Facilities expansion in the aircraft industry was highly important in Los Angeles and San Diego counties; shipbuilding led in Solano, Contra Costa, San Francisco, and Alameda counties as the primary factor in their expansion programs, and was also of importance in the Los Angeles area.

tion of "new" plants. In the period covered by Table 2, "conversions" were more often privately financed than publicly financed, resulting in a higher percentage of private financing in California than in most other states of comparable size and industrial development. Approximately 30 per cent of total financing in California was private.⁷

In Table 3 is shown estimated cost of authorized manufacturing facilities in various industrial areas in California established by the War Production Board. Cost of facilities in the Los Angeles area is the largest, with approximately \$404.3 million provided publicly and \$280.3 million provided privately.

TABLE 3—ESTIMATED COST OF WAR MANUFACTURING FACILITIES AUTHORIZED, \$25,000 OR OVER, BY WPB REGION AND INDUSTRIAL AREA, SOURCE OF FUNDS AND PURPOSE OF AUTHORIZATION, JUNE 1940 THROUGH DECEMBER 1944
(000 omitted)

Region	Grand Total	Public			Private			
		Total	Structure	Equipment	Total	Structure	Equipment	Other
Region X	\$1,686,019	\$1,216,576	\$577,361	\$639,215	\$469,443	\$130,461	\$295,375	\$43,607
Los Angeles	684,736	404,354	159,411	244,943	280,382	69,962	189,125	21,295
San Diego	69,259	50,055	27,533	22,522	19,204	12,497	4,839	1,868
San Francisco Bay	493,940	388,772	214,268	174,504	105,168	23,575	69,897	11,696
Remainder	438,084	373,395	176,149	197,246	64,689	24,427	31,514	8,748

Source: War Manufacturing Facilities Authorized through December, 1944, Vol. 1, War Production Board, June 15, 1945.

Expansions in chemicals and petroleum products were generally widespread throughout the state, with the heaviest concentrations occurring in Los Angeles and Contra Costa counties.⁶

It is evident from Table 2 that public funds were the principal source of financing for wartime expansion. In Solano County, where all funds were provided by government, investment occurred chiefly in the "expansion" of existing plants. In San Bernardino County, where more than 97 per cent of funds came from public sources, the money went primarily for the construc-

In the Nation as a whole, of the \$18.2 billion of war manufacturing facilities added from July 1940 to May 1944, \$14.4 billion, or 79 per cent of the total, was financed by Federal funds.

In the Pacific region (Washington, Oregon, and California), a total of \$1.666 billion was expended from July 1940 to May 1944 on expansion of manufacturing plant, \$1.225 billion representing "new" plant and \$441 million representing "expanded" plant. Of this total, the value of Federally financed plant was \$1.275 billion, "new" plant accounting for \$1.012 billion and expanded plant for \$263 million. Grand

⁵ WPB, *op. cit.*, p. 17.

⁶ *Ibid.*, p. 54.

⁷ WPB, *op. cit.*, pp. 20-21.

total for the Pacific Region represents 9 per cent of the national total; 77 per cent of facilities expansion in this region was Federally financed.⁸ The greater part of Federal funds was provided under construction contracts and, to a less extent, through loans and supply contract advances.⁹

ACCUMULATION OF CAPITAL

War expansion of the type which has been detailed in the preceding paragraphs has obviously created a large amount of at least partially useful fixed capital in this as in other regions, but it has been the source of earnings from which funds for conversion and new capital can be provided. Many businesses which heretofore have not been capable of supplying capital needs from internal sources have unquestionably attained that status during the war years.

Renegotiation has apparently had little effect in reducing the net earnings which are the source of such surpluses. Corporate refunds to the United States Treasury were frequently made from War and Related Contingency Funds accumulated for the purpose. According to a survey by the Securities and Exchange Commission of seventy firms in 1943,

gross refunds of \$2,410,000 were made from accumulated funds amounting to \$22,030,000. Within this group net profits before income taxes and renegotiation amounted to \$369,014,000 and after taxes and renegotiation to \$118,583,000. Income taxes in excess of \$123,000,000 are obviously the most important factor in reducing surplus.¹⁰

⁸ "Characteristics of Manufacturing Facilities Authorized, July, 1940 to May, 1944," WPB, Jan. 22, 1945, p. 20.

⁹ *Ibid.*, p. 8.

¹⁰ Survey of American Listed Corporations, Data on Profits and Operations, 1942-1943, SEC, March 15, 1945, p. 1.

The increasing ability of corporations to finance their own capital expenditures is paralleled by the wartime growth of individual holdings of saved, and presumably investable, funds. No argument that all such holdings are a source of investment funds could be reasonably made, so the point will not be labored. The wartime growth of bank resources, in both demand and time deposits, is well known, and is a simple index of the increasing availability of money for all purposes, including investment.

BANKS AS SOURCES OF CAPITAL

Obviously, savings banks are not a source of venture capital, and the rise in savings deposits occasioned by the war cannot be regarded as a potential stimulus to equity financing. The erratic increase in demand deposits and checks payable simply reflects the expansion of industrial activity and the use of bank funds to provide working capital and finance conversion of facilities. Demand and time deposits were the largest in the San Francisco Metropolitan Area and the Los Angeles Metropolitan District, in accordance with the general pattern of wartime expansion.

Commercial banks have generally been the most significant institutional sources of venture capital, and yet small businesses find it difficult and inadvisable to secure capital from such sources. Nothing in our analysis of wartime developments would indicate that this problem has been lessened or solved in recent years, except insofar as the improvement in financial position experienced by many concerns will make it easier to obtain bank credit. Fundamentally, the securing of equity capital from commercial banks remains as difficult and impracticable as in the prewar years.

What, then, are we to conclude with

respect to the postwar capital market in California? The large firms which have shared in the war boom have obviously done well, improving their position for internal financing and strengthening their already sound claims for the attention of the regularly organized capital market. Many minor firms have had a similar experience insofar as the growth of assets is concerned, while increased savings of all classes indicate the availability of funds if only the market can be organized to serve their needs. How can this be achieved?

EXISTING CREDIT AGENCIES

California does not lack well-organized markets for capital funds. In fact, especially with respect to sources of bank credit, the state is particularly well provided with sound institutions managed with vigor, imagination, and an eye to the well-being of the business community as a whole. This circumstance, however, does not offset the facts that bank credit must rest to a considerable degree upon the proprietor's equity in a business, and that when equities are inadequate, credit is hard to secure and expansion, or even routine operation, becomes difficult.

The banks of the state, with the exception of a few institutions which have clung tenaciously to traditional practices, have made good use of the devices which make relatively liberal commercial credit, installment loans, term loans, and management advisory services. There are, of course, other agencies offering short-term credit to business, and these have also expanded the scope of their operations to keep pace with the demands of business in the state. Factors, dealers in accounts receivable, and chattel mortgage lenders have shown themselves willing to supply credit to many businesses at relatively high cost when the qualifications for a bank loan did not exist. The cost

of these accommodations, which range from one and a half to six times the cost of bank loans to small business, also makes expansion difficult. The high operating costs which such loans entail make the accumulation of equities a feat which only a few businesses can accomplish.

California, with its relatively high per capita income, has seen a considerable development of the agencies of the investment capital market. The laws of the state have been favorable to sound corporate development, and securities markets have escaped both onerous control and the neglect of regulation which leads to fraud. The healthy climate which has existed for investment has, however, encouraged the growth of agencies with a primary orientation toward the national securities market, and purely regional or intrastate investment facilities are no better developed here than in other parts of the United States.

This circumstance has led to the diversion of much of the investment of the people of California into firms whose domiciles and operations are elsewhere. Except insofar as certain California corporations attract the attention of investors in the national market, there has been no offset to this condition. Local firms in need of long-term funds find themselves in competition with big users, on terms which leave them at a great disadvantage. In fact, it may be said that true competition does not exist, since the small or purely local firm finds that the capital facilities which serve the large user are not open to it.

OBSTACLES TO SMALL BUSINESS

Small businesses in California therefore confront the same situation which faces such firms everywhere. With the major areas of the capital market closed to them, they have but two resources

available. They must build capital from within by "plowing back the profits of operation," or they must find willing investors whose demands upon the firm will not be too severe. The former process is traditionally slow, but relatively free from danger, though it has other disadvantages, not the least of which is that it may keep out of the firm persons whose abilities would improve its management. The latter method, finding investors willing to take an interest in the firm, brings in equity capital with greater speed, but involves many difficulties.

The first obstacle in the way of external equity financing of small business is to be found in the organization of the capital market. As has been emphasized above, its present machinery meets the needs of large firms in the national market, but excludes the others. There are no specific small-business financing facilities except in those cities with so-called "industrial foundations," and none of them are in California. Equity capital for the small firm depends upon informal "catch-as-catch-can" financing.

A second obstacle is to be found in the attitudes of investors. The twin objectives of security and liquidity, which are more readily obtainable in widely traded, seasoned corporate issues or government bonds than in the shares of a small firm, are of such dominant importance that only a speculative buyer can be persuaded to purchase the issue of a small business. The speculative attitude nevertheless dominates the small-business capital market, and the result is a heavy burden on the firms which must depend upon it. The sale of an equity involves either the payment of a high rate of return, approximately a speculative profit, an opportunity for a quick turnover with such a profit, or a share of ownership (and usually control) so large as to constitute

a gross overvaluation of the funds provided. It is not surprising that many small-business proprietors regard equity capital from outside as unavailable or impossibly expensive.

PROPOSALS FOR IMPROVEMENT

Proposals for the improvement of the capital market take essentially two forms, those contemplating the refinement and extension of existing institutions, and those looking toward the creation of publicly financed and controlled agencies. With respect to these alternatives the writer has four recommendations:

1. The creation of voluntary, community-sponsored business financing corporations on the pattern of the "industrial foundations" should be encouraged. A major function of these agencies should be the provision of a meeting ground for investors and businesses in need of funds. The contracts between such parties should be uniformly drawn, with their major provisions subject to the decision of the agency. The existence of this service should be widely publicized, and every effort should be made to draw the attention of investors to local opportunities. This proposal envisions a practice somewhat different from that of the existing foundations, which are investment trusts rather than clearing houses. An agency of the type suggested should not be difficult or expensive to operate, and it should succeed, perhaps after an initial period of subsidized operation, in bringing funds to businesses in need of equity capital at a far lower cost than that now required of small firms.

2. Banking institutions should make available research, advisory, and management services which will permit them to liberalize lending with little hazard to liquidity.

3. Banks should create joint loan insurance funds in a form somewhat like

a credit pool to permit the liberalization of lending practices, especially with respect to term and installment loans.

4. The question of publicly financed and managed agencies should be made the subject of further study to be undertaken in the light of the success of the voluntary measures proposed and in consideration of the probable (or possibly demonstrated) effects of pend-

ing Federal legislation to extend the lending services of the Reconstruction Finance Corporation to equity investments in small businesses.

And we must conclude with a recommendation bearing on a subject to which this paper has given little attention: a careful examination should be made of the tax structure and its impact on investment.

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California's Local Revenue Problem

By JOSEPH O. McCLINTIC

THE question might well be asked as to why the oft-discussed field of local finance should be the subject of another paper at this time. The reason is that it has been our observation that specific action on a problem often waits on the detailed evidence of the situation, itemized description of the various types of circumstances needing remedy, the actual steps being taken, rather than the generalized but less clearly delineated presentations of the problem. It is with that purpose in mind that these materials are set forth.

The emphasis will be placed on the financing of local units of government, with special reference to the southern California area. Since, however, these are creatures of the state and do not exist apart from the state and its actions and supervision, there will of necessity be discussion of state aspects also. A certain amount of background materials must be briefly reviewed, though these are in general fairly well known and have been adequately presented elsewhere.

A mixed scene is found in this first postwar year. Certain governmental jurisdictions have been lifted from financial difficulties, at least temporarily, by the all-pervasive effects of the war economy, while others have experienced a very different effect. In the case of the state of California, the situation of a sizable depression-incurred deficit was changed to such a substantial condition of surplus that nearly \$146,000,000 was set aside for postwar reserves. In the case of local jurisdictions, the increasing population has required an increasing amount of services. The taxing capacity of local government, being relatively narrow and fixed, has not in general been sufficiently responsive to

these increasing needs without resort to newer types of taxes. But even this phase of the picture is mixed, in that some cities are in quite straightened financial circumstances as compared with others.

In the development of this topic, the following general points will be discussed: (1) the growing needs of local governments, both long-term and war-induced; (2) the growing inadequacy of the general property tax; (3) the activities of the local governments in view of these changes; (4) an appraisal of these current developments; and (5) the position of the state in relation to these trends.

GROWING NEEDS OF LOCAL GOVERNMENTS

California's urban communities can expect growth under normal circumstances. California's special relation to the war effort, its strategic location, and the number of veterans planning to locate in the state, all accelerate population growth. This unexampled growth occurs at the same time that the property tax base is deteriorating. Among the many expanding needs of urban communities, these are representative: (1) demands for added services because of the growing complexity and urbanization of our economy, and because of an increasing population; (2) in the more progressive and larger cities, the initiation of employee pension plans; (3) the rather drastic increase in the costs of labor, materials, and equipment; (4) the addition of costs through the fiat of the state legislature; and (5) the rambling and extensive nature of our California cities, which spread out rather than up. Servicing the scattered city means longer

routes for the various city services, increased personnel, and more equipment.

Inspection of recent budget totals will show the speed with which financial needs are rising. Expenditure totals for Los Angeles County were: in 1943-44 approximately \$89 million; in 1944-45 about \$94 million; allowed for 1945-46, more than \$115 million.¹ About one-half of these expenditures is met by subventions from superior units of government.

Payments made by state, county, and city units have shown great increases over the past decade, as shown in Table 1. The period since 1944 has of course seen the increase continuing sharply.

TABLE 1—EXPENDITURES AT VARIOUS LEVELS ²

Year	State	Counties	Cities (incl. S. Fran.)
1934	\$253,285,222	\$320,405,665	\$219,263,589
1939	607,550,316	455,947,086	273,792,943
1944	777,215,054	549,234,931	424,636,458

A recent study ³ of projected public works expenditures in the Los Angeles area over the next fifteen to twenty years shows a total amount of nearly a billion dollars, the largest item being the system of limited-access highways and freeways of about six hundred miles, the cost of which is estimated at more than \$600 million. A very significant portion of works must be financed by the local governments.

The increase in the budgets of local governments is marked and appears inescapable, and will without doubt be of continuing character.

¹ Preliminary County Budget (Los Angeles County) for fiscal year ending June 30, 1946.

² *Annual Report of Financial Transactions*, State Controller of California, 1944.

³ George Bemis, *Coordinated Public Works for Metropolitan Los Angeles*, Haynes Foundation.

GROWING INADEQUACY OF PROPERTY TAX

One of the most important causes of the growing inadequacy of the property tax, the principal historical source of the revenue of cities, has been the reduction in the assessed valuation during the 1930's. Evidence submitted ⁴ to the Assembly Interim Committee on State and Local Taxation shows the drastic nature of this reduction.

Between 1920 and 1930, the per capita assessed valuation subject to municipal taxation increased from \$1,014 to \$1,256. When the depression struck, assessors drastically cut valuations, and therefore revenue, from the property tax, just at the time when many costs related to relief were increasing. Between 1930 and 1934 assessed valuation subject to municipal taxation decreased by more than \$1,250,000,000, or approximately one-fourth. The decline was the greatest in the southern part of the state, where speculative values had gone highest in the 1920's, a fact which might well be remembered in the present period of inflated values.

For representative cities, the percentages of decline in assessed valuation between 1930 and 1934 were as follows: San Diego 39, Los Angeles 35, Glendale 32, Pasadena 32, Oakland 18, Berkeley 11, San Francisco 8, and Sacramento 7.

In 1934 the ad valorem tax revenues in Los Angeles were 30 per cent lower than in 1930, even though the tax rate for all purposes was 8 cents per \$100 valuation higher. In San Diego an over-all rate of \$2.86 in 1934 produced 28 per cent less revenue than a rate of \$2.19 in 1930. In Pasadena a rate of \$1.30 in 1934 produced 33 per cent less than a rate of \$1.23 in 1930.

⁴ By Mayor Harley E. Knox, president of the League of California Cities, April 8, 1946. Much of the data in this paper has been drawn from the materials presented by Mayor Knox.

Recovery from these low points has been slow. Assessed valuation subject to municipal taxation (including public utility property) in 1945 was only 17 per cent above 1940 and only 7 per cent above the corresponding figure for 1930. Thus a fifteen-year growth of population and responsibilities had to be serviced, as far as the property tax was concerned, with a base only 7 per cent greater. In San Diego, per capita assessed valuation was \$737 in 1940 as against \$550 in 1945; in Alameda, \$850 in 1940 as against \$379 in 1945; in Richmond, \$1,435 in 1940 as against \$494 in 1945; in Vallejo, \$578 in 1940 as against \$311 in 1945. These cities experienced a decrease in financial strength although their total dollar assessed valuation was somewhat increased.

In Los Angeles, 1945 land valuations (excluding public utility property) was 53 per cent below the 1930 level; the corresponding percentages for Oakland, Glendale, and Stockton were 38, 32, and 29. The dollar valuation of locally assessed land in San Francisco in 1945 was just slightly above that of twenty-five years ago.

The return of the centrally assessed public utility properties to local assessment rolls in 1935-36 added on the average 5 to 10 per cent to the local rolls; yet the per capita assessed valuation was \$977 in 1940 as against \$1,256 in 1930.

The war practically stopped construction of taxable facilities, and in addition, substantial valuations were removed from local assessment rolls through the increase in federally owned properties. For some cities, particularly the larger ones, the process of decentralization has caused the loss of some of the highest values in the cities. Urban blight has affected certain locations. In a recent pamphlet issued by the State Reconstruction and Reem-

ployment Commission, it is stated that in 1943 three square miles in Boyle Heights in the city of Los Angeles paid \$207,825 in property taxes, while governmental services performed in that area cost \$448,511. Decentralization through the construction of facilities by major firms in nearby cities may have a serious effect.

Exemptions are eating away at the property tax base also. Mention has already been made of the federally owned properties. In addition, there is a tendency for general exemptions to increase. The state of California has been very liberal in the extension of exemptions to veterans—at the expense of the local governments. Not only will large amounts of property be removed from municipal taxation, but more serious is the fact that cities will not bear the burden of exemption in a proportionate manner. A number of city assessors have estimated that within five years the total loss of taxable valuation because of these exemptions will offset the total amount of taxable valuation returned to local assessment rolls by the Riley-Stewart amendment.

Tax limitation laws have further reduced the possibilities of the ad valorem tax. The necessity of subsisting on such reduced rations throughout a large part of the last two decades helps to account for the inadequate physical plant of many cities today, and the consequent necessity of larger expenditures now than would otherwise have been the case.

CITIES ATTEMPT TO MEET THEIR CRISES

Failing a more fundamental sort of solution, many cities, facing the heavy load of service costs, have turned to a greater use of taxes which can be levied on transactions or on business. Taking the country at large, we find local

governments using flat-rate and gross-receipts business licenses, motor vehicle licenses, license fees on telephones and meters, parking meters, amusement taxes, occupational taxes, utility taxes of both franchise and gross-receipt type, sales and gasoline taxes, inspection and highway privilege charges, and direct transfers of revenue from public utility enterprises.

The development of supplementary revenue sources has been significant in California, both as to variety and as to revenue totals. In general, the experience of three cities may be cited as evidence.⁵ In San Diego between 1940 and 1945, total revenues increased by 87 per cent; ad valorem taxes by only 39 per cent. In Richmond the corresponding increases were 211 per cent and 105 per cent; in Vallejo, 170 per cent and 23 per cent.

San Diego received \$147,500 in 1945 from a business license tax based on the number of employees, and Richmond raised \$128,000 from a similar tax. A gross-receipts business license tax produced \$154,265 in Fresno and over \$70,000 in Bakersfield in 1945. Parking meters, now in use in more than a dozen cities, grossed \$250,000 in San Diego in 1945, \$67,000 in Richmond, \$37,000 in Vallejo. Within Los Angeles County two cities raised revenue from parking meters last year, while five are using them this year.⁶ Huntington Park reported a parking meter income of \$2.45 per capita, supporting 12.92 per cent of its budget. New parking meter installations were reported in Pomona, supporting 5.43 per cent of its budget, and in Inglewood, supporting 8.04 per cent of its budget.

An amusement tax of 3 cents per ticket in San Bernardino produced

\$96,000 in 1945; a tax of 2 cents per ticket in Stockton realized \$84,000; while a tax of 1 cent per ticket brought in \$191,000 for San Diego. Three cities in Los Angeles County are reported this year as levying amusement taxes.⁷ The pioneer city in this field is Redondo Beach, supporting 16.07 per cent of its budget from such a tax, with a per capita amount of \$2.69. Bell reports a percentage of 5.99 with a per capita income of 75 cents; and Compton reports a percentage of 4.02 with a per capita income of 47 cents.

A retail sales tax of 1 per cent yielded \$454,466 in San Bernardino in 1945. Santa Barbara and several other cities in the southern part of the state are also using the retail sales tax, but a full year's collections are not yet available. In Los Angeles City, a retail sales tax of $\frac{1}{2}$ of 1 per cent has recently been adopted. Los Angeles has also levied a manufacturing, fabricating, or processing tax of \$1.00 per year for each \$1,000 of gross receipts, and an occupation or profession tax of the same proportions. Mayor Bowron has stated⁸ that he expects these taxes to yield approximately \$13,000,000 added revenue, roughly the amount of increase in the budget. The sales tax must carry most of the additional burden.

Last year sixteen cities in Los Angeles County reported aid from public service enterprises totaling \$5,590,000, or 10.17 per cent, with a per capita income of \$2.05; but this year twenty cities reported aid from public service enterprises to the extent of \$7,217,000, with a percentage of 11.98 and a per capita income of \$2.54. From individual cities we find the following: the city of Monrovia supported 35.93 per cent of its budget from this source, Montebello 25.30 per cent, Long Beach 23.56 per cent, Pasadena 12.12 per

⁵ Report of Mayor Knox to Assembly Interim Committee, *op. cit.*

⁶ W. C. Thiel, in *Western City*, May 1946, pp. 32-33.

⁷ *Ibid.*

⁸ *Pasadena Star-News*, June 5, 1946.

cent, and the city of Los Angeles 11.11 per cent.

APPRAISAL OF TRENDS

As Mayor Knox says, the revenues from such sources as are referred to above, with the exception of the retail sales tax, are only supplementary to the property tax, and do not singly or in the aggregate produce a sum sufficient to enable the cities to be substantially independent of the property tax. What our cities need is a major source of revenue which can be paired with the property tax to produce a more equitable distribution of the cost of city government among all persons benefited than is possible through the property tax alone, and which, in combination with the property tax, will produce sufficient funds with which to develop and maintain a reasonably adequate standard of city services and facilities. Two such sources have been tried in some cities, namely, the municipal sales tax and the municipal income or pay-roll tax found in Philadelphia and more recently in Toledo, Ohio.

Looking at the long list of supplementary types of levies, it can be seen that a number of them can rather easily be supported on the argument of the direct benefits conferred by the governments concerned. However, as these governments grasp at almost any source which holds promise of yielding a significant amount of revenue, it is found that usually the taxes are regressive and of a repressive character, and make for an unduly complicated tax system.

It would appear that thoroughgoing attempts at real improvement of property tax are being given slight place. The tendency is likely to be aggravated as supplementary sources take over more of the burden. It should be steadfastly resisted, and the proved methods of more efficient administration, pointed out by so many students of the property

tax, applied widely. These have been so thoroughly explored that their discussion here would add nothing.

Certain other innovations, however, have had less attention. A recent Treasury study⁹ suggests that investigation might well be made of a procedure which has been successfully used in a number of other countries. The thought of the authors was that the property tax might be broken down into its elements and its uniform application to all owners be abandoned. One way of recasting the fragments would make use of a collection from landlords in the nature of a service charge for local benefits to property and a further collection, of more personal character, from occupants on their rental value of occupancy. The latter tax could be either a replacement or a supplement to the general property tax.

Such a system would have both advantages and disadvantages. It would shift a part of the burden from real estate to current income in the form of the tax on gross rental value of occupied premises. Unused properties would be exempt. The rental tax could, if deemed desirable, make some allowance for individual ability to pay. The system would, however, have some very important disadvantages. There would have to be two valuations, one for the capital value of the property and one for its rental value. It would not improve the situation under which we find so much of the weight of the local taxes falling on housing, at a time when the Nation is trying without sufficient success to improve housing standards.

At least an investigation of the proposal might well be made, as well as of the possibility of using unearned increment taxes in this field. Whatever the decision, the cities should be given greater freedom in the application of

⁹ *Federal, State and Local Government Fiscal Relations.*

the general property tax. If administrative assistance from the state would aid materially, this could be given in a co-operative way so that too much domination of the local unit would not result.

Taxation of utilities

As was indicated above, there is an increasing practice of transferring earnings of the publicly owned utilities to the general municipal treasury. Where these utilities, such as power and light, are efficiently managed, are giving good service at relatively low rates, have set aside enough for future requirements, and can still use an important percentage of their gross earnings for retiring bonded indebtedness or for general purposes, there is considerable justification for such a procedure.

In the first place, such contributions constitute a relief of the property tax burden. In the city of Pasadena, it is estimated that the average city tax bill is probably \$40 to \$42. If there were no contribution from the public utility to the general fund, barring an increase in some other tax, there would have to be an increase in the general property tax to make up the difference. The incidence of the burden in each of these cases would be an interesting study, but there is still considerable reason for the utility contribution even if the burden should be wider than the property tax burden. In order to prove such a contention, it would be necessary to make an analysis of the shifting of burdens of taxes on property to renters—a difficult thing to carry out through experimental methods.

As against the average tax bill in Pasadena of \$40 to \$42, it is estimated that the actual cost of servicing dwellings is on the average \$58 to \$60. If the burden of property taxes is substantially passed on to the tenant, the degree to which this burden is reduced

by the payment of a slightly higher utility rate than would otherwise obtain would really make very little difference to the ultimate consumer.

Another interesting facet of the public utility contribution is found in the fact that the utility rates constitute a way (ordinarily the only way) of reaching for some revenue the Federal or other tax-exempt holdings in the city.

A majority of the states exempt public utility property from taxes.¹⁰ If a sum equivalent to taxes is set aside, the exemption may result in no loss of revenue over what would be gained from a privately owned utility. It has been pointed out that local taxes in the case of a municipality owned utility are a bookkeeping transfer in any event, but that such a transfer as a substitute for taxes is confusing.¹¹

There is considerable basis for taxing all utilities, whether publicly or privately owned, on the same basis as other business enterprises. The use of publicly owned utilities as a yardstick to measure privately owned utilities would mean a great deal more if the former were so taxed. Since the consumers of the services of publicly owned utilities receive benefits from government, a tax payment on the revenues of the utility might be said to be justified at least to some degree for that reason. Especially would a tax payment be meaningful if the utility owned property in another jurisdiction. It is interesting to note that the British impose taxes on publicly owned projects in the same manner as on privately owned ones.

The sales tax

As regards the sales tax, we are

¹⁰ Lawrence R. Bloomenthal, "Exemption of Municipal Property Based on Public Use," *Tax Magazine*, Vol. XVI, No. 5 (May 1938), p. 274.

¹¹ Harold M. Groves, *Financing Government*, p. 291.

rapidly coming to the point where we should stop the equivocation so prevalently displayed. If we must have the sales tax for local revenue, if it is the best of the available alternatives, then let us quit trying to condemn it at the same time that we spread its use. The writer carries some skepticism as to the general necessity, but let us presume its necessity in order to make the next suggestion. That suggestion is that in order to halt the trend in regressive taxation, whatever percentage of sales tax levy be made, let it be made within the existing state levy.

A Michigan tax study group proposed the reduction of the state sales tax rate to $2\frac{1}{2}$ per cent and the authorization of any city to levy a supplemental rate of $\frac{1}{2}$ of 1 per cent to be collected for it by the state.¹² Administratively, the proposal seems quite practicable. The same administrative rules and regulations used by the state would apply to the city levy, and the state department of revenue would collect the tax and return the amount to the municipality. Supporters of the plan say the alternative to this method would be to distribute a fixed share of state sales tax revenue to local units, which, they say, would for some cities be unneeded "easy" money. Further, they argue that it properly puts the responsibility for the existence of the tax on the local governing board, and that the establishment of an equitable distribution formula would be too difficult to be desirable.

If the burden of the general property tax is as onerous as is usually argued, then the so-called "easy" money should be used to lighten the burden. If the need is as general as is usually believed, the problem of the establishment of any distribution formula other than to re-

turn the levy to the jurisdiction of origin would be unnecessary. For these reasons it is believed that this idea is probably little improvement over the straight state levy with subventions to local units. Various localities are likely to say, We can get this revenue, why not do it? A tax at a small percentage rate is not likely to overcome such an attitude.

STATE RELATION TO THESE TRENDS

If this general attitude of using the sales tax for local revenue is widely accepted, what about the elements of regressivity and the need of the state for the revenue relinquished to the local government? It may be that we should accept as a fact that local revenues will have to be regressive in nature. If so, the policy of the state should be to offset this regressivity. This can be done, and more revenue gained for the state, if more dependence is placed on the progressive income tax. The author is very well aware that the point will immediately be raised that state rates plus Federal rates may be confiscatory. This need not be.

The income, inheritance, and estate taxes, which can best be made consistent with ability to pay through progressive rates, made up only 12 per cent of the total state tax revenue for the Nation in 1940-41.¹³ Mutual deductibility of state and Federal taxes constitutes an effective guard against such confiscation. The Treasury study referred to above pointed out that under mutual deduction, a Federal marginal income-tax rate of 80 per cent, with a state income-tax rate of 15 per cent, would result in an effective total marginal rate of 80.7 per cent, the state effective rate being 3.4 per cent and the Federal effective rate being 77.3 per cent. This gen-

¹² Denzel Cline, "Proposed Supplemental Sales Tax in Michigan," *Bulletin of the National Tax Association*, April 1945.

¹³ A. H. Hansen and Harvey S. Perloff, *State and Local Finance in the National Economy*, p. 39.

eral problem of the effect of deductibility on the taxes actually paid has been more thoroughly explored in other studies.¹⁴

With this effect of deductibility, the states should not feel so reticent about making the income tax a much better revenue producer. In the case of California a change in the law would have to be made, since California does not now provide for such mutual deductibility. While the author is aware of the lack of popularity of the suggestion, the community-property provisions as they apply to the income tax should probably not be given the sacred-cow status they have hitherto enjoyed in California.

In the discussion here, it is assumed that personal income taxes will not be reserved solely for the exploitation of the Federal Government, but will be a prominent part of the California tax system. Such must be true if California is to raise in the best possible way the large revenues it must have, and at the same time reduce sales taxes in order to increase mass consumption when the current war-created spree has run its course. The states should not be asked to surrender the income tax; unless interest in state and local government is to be discouraged, some access by the states to progressive personal and direct levies is exceedingly important.

Thought might well be given to broadening the income tax base by the state. Farmers have in effect been granted an

exemption on home-grown foods, though no tax law actually gives such an exemption. Wisconsin has met this situation directly by including a presumptive food income of \$90 per adult and \$60 per minor living on farms. Another broadening factor would be the taxation of the rental value of an owner-occupied home, mentioned above. Both of these means have long been used in Great Britain.

Death and transfer taxes have in general been disappointing in their accomplishments. The rectification of the death taxes must be made with the Federal Government making the general rules. The exemption might well be lowered. The Treasury study suggests allowing the taxpayer a credit of 50 per cent of the tax (at 1941 rates and assuming a \$20,000 specific exemption) on the amount of the estate not exceeding \$100,000, and a credit of 25 per cent of the tax on the amount of the estate exceeding \$100,000.

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If we attain the most justifiable state tax system, it will consist in the main of personal and corporate income taxes, death taxes, and liquor, tobacco, motor vehicle, and gasoline taxes. Perhaps that is expecting too much in view of the great productivity of the sales tax and the resistance which would be met in shifting any considerable part of the burden to the state income tax. However, it is believed that the increasing use of the sales tax for state revenue should be discouraged, and efforts made to make the state system more progressive.

¹⁴ J. O. McClintic, "Reduction of State Personal Income Tax Revenue Through Special Statutory Features," *Bulletin of the National Tax Association*, April 1941.

Joseph O. McClintic, Ph.D., is associate professor of economics at San Diego State College, San Diego, California, and is president of the Southern California Economic Association. His articles have appeared in the Bulletin of the National Tax Association, Proceedings of the Pacific Coast Economics Association, and other journals.

Book Department

INDUSTRIAL RELATIONS COUNSELORS, INC.
National Collective Bargaining Policy.
Pp. 103. New York, 1945. \$1.25.

This little booklet is one of a series of monograph studies by Industrial Relations Counselors, Inc. dealing with the field of industrial relations. It sets forth in readable form what this employer research agency thinks "should be" the collective bargaining policy of the Federal Government:

1. "The government should maintain and improve the system of free enterprise.

2. "Its labor policy should be designed to stimulate maximum production and employment.

3. "Its policy should encourage employers and employees to assume responsibility for the conduct and control of their activities and the settlement of labor disputes between them.

4. "It should facilitate collective bargaining not as an end in itself but only as a means to further the welfare of individuals and the legitimate aims of groups with a community of interest.

5. "It should leave employees free either to accept or reject collective bargaining.

6. "Rights to organize and bargain collectively should be clearly established in law, and should be balanced by correlative responsibilities.

7. "Different procedures—such as mediation and arbitration—should be established for the settlement of different types of disputes.

8. "A clearly stated national collective bargaining policy should be laid down as far as possible by Congress, leaving limited discretion in the hands of administrative agencies.

9. "Administrative boards should not be tripartite."

The study concludes with the suggestion that the above objectives can be reached, for the most part, by the adoption of amendments to present legislation. For instance, "In view of the technical knowledge required, Congress should authorize and direct the National Labor Relations Board to issue, after public hearings, regu-

lations in accord with a broad statement of policy defining specifically the meaning of 'rates of pay, wages, hours, and other conditions of employment,' about which employers must bargain collectively, either in agreement negotiations, or grievance negotiations, or both. By implication this would reserve to management those functions about which refusal to bargain would be an unfair labor practice" (p. 42).

There are many sound suggestions made within the pages of this little study. Surely there is need for a forthright, courageous pronouncement of national labor policy. Responsibilities, as well as privileges, must be accepted by labor unions. Provision for the settlement of jurisdictional disputes must be made by law if and when the unions fail to make these settlements themselves. Management must be assured of its prerogatives—in fact, its responsibilities to the consuming public—to manage its activities efficiently and effectively. The time is long past due for a general recognition of the public interest in industrial warfare, and for the constructive establishment of channels and procedures designed to encourage the peaceful settlement of industrial disputes.

Many students of labor will, however, take issue with several propositions made in the study. At least two points should be mentioned here to emphasize the deep-rooted management position from which the proposals stem. It is contended that "union security provisions should be excluded from the scope of legally required bargaining" (p. 27). Indeed it will be difficult for most impartial students of industrial relations to comprehend how this proposition can be accepted if the principle of collective bargaining has been endorsed, and in fact guaranteed, by Federal statute.

Again, it is argued that where the aims of particular groups with a community of interest as well as those of the individual are in conflict with the objectives of the majority . . . such groups should have the right to remain unorganized, or to establish a separate unit (p. 24). This doc-

trine, universally preached by employer groups, appears (to the mind of this reviewer) to overlook the cornerstone of democratic philosophy, which is majority rule. If the employees of an organization—free from coercion and fear—by majority vote have decided to bargain collectively for the closed shop, it is difficult to see under what principle of democracy they can be denied this privilege if their procedure is orderly and their acts in so doing are lawful.

What is most needed here is to see that the choice is really that of a majority of the employees, intelligently expressed and registered entirely free from pressure or fear.

PAUL A. DODD

University of California

SMITH, LEONARD J. *Collective Bargaining*. Pp. xiii, 468. New York: Prentice-Hall, Inc., 1946. \$5.00.

As the author of this book points out, collective bargaining is a means to an end, and the end is a "mutually acceptable labor agreement." The current volume is primarily concerned with the means, i.e., with the process of collective bargaining. So far as this reviewer is concerned, it is to the author's credit that an attitude of impartiality is maintained throughout the book.

The author opens his discussion with a clear exposition of the "Areas of Collective Bargaining." He proceeds from that point to a consideration of the "Attitudes Toward Collective Bargaining," thence to an analysis of the "Objectives of a Labor Agreement," and a consideration of "The Negotiators," "Negotiating the Labor Agreement," "The Labor Agreement," "Recognition of the Union," "Wages," "Working Time," "Conditions of Employment," "Management Rights," "Seniority," "Day-to-Day Relations," and "Formal Provisions."

One of the excellent features of this book is Smith's treatment of the details of the bargaining process. The author points out that "although there are different approaches to this matter of collective bargaining, all are basically similar. . . ." In reading the chapter on "Negotiating a La-

bor Agreement," one is made to realize the importance of amenities in the employer-employee relationship and of the preliminary proceedings, and the necessity for providing carefully for the physical setup. The reader is also impressed with the orderly arrangement of subject matter in this chapter—a characteristic, in fact, of the entire volume.

A major purpose of this study, states the author (Preface, p. vii), is to provide "a source of information on the entire subject of collective bargaining." This, of course, is a big order for one volume, and the ability to accomplish this purpose depends in considerable measure upon the scope of the subject of collective bargaining. If one considers that the range of subject matter should include an illuminating discussion of the life of labor agreements, the current work does not meet that requisite. What are the pros and cons of annual agreements and long-term agreements? What has been the practice in respect to the length of agreements, and what are the trends? Obviously, the reader must go outside the content of this volume for a more detailed exposition of the alternatives from which choices are to be made in answering these and other questions. For example, the author suggests that the question of "posting union notices" may arise in negotiation proceedings, and if a clause on "Bulletin Boards" is to be included, he asks "Shall the union be permitted to post notices on company bulletin boards?" What, again, are the practices and what are the pros and cons?

One of the strong points of this book is the incorporation of "thought-provoking questions" at appropriate points, but, in the opinion of this reviewer, "thought-provoking discussions" have been used too sparingly. Spatial limitations undoubtedly made it necessary to condense and outline more detailed treatments of various important aspects of collective bargaining, such as could be found in references submitted by the author. This does not seriously detract from the value of Smith's splendid study of collective bargaining, but the careful student of labor relations must surely realize the necessity for combing the bibliography and running references to

broaden the base for his understanding of problems generated by the author's numerous questions.

This book cannot justifiably be omitted from the reference shelf where courses in labor relations are taught. It may well serve as a text in the more highly specialized courses on collective bargaining. Special mention should be made of the appendices, among which are an extremely valuable "Glossary of Terms," "Sources of Information," "A Bibliography," "A Code of Industrial Jurisprudence," "Illustrative Labor Agreements," and "Specimen Labor Agreement Clauses."

J. C. PHILLIPS

University of Pennsylvania

HOSLETT, SCHUYLER DEAN (Ed.). *Human Factors in Management*. Pp. 322. Parkville, Missouri: Park College Press, 1946. \$4.00.

This book is a valuable addition to the rapidly expanding list of books dealing with human relations in industry, not because it makes a significant contribution to this field of knowledge, but rather because it brings together in one book carefully selected studies which ordinarily would be unavailable to most executives.

The editor has wisely avoided even attempting to cover as wide a field as the title suggests. He has rather limited himself to a careful selection of some of the more significant aspects of "human factors in management." Considering the limitations of space under which the editor worked, he has succeeded in making generally excellent selections. No one attempting to select the most significant material from a rather broad field of knowledge is likely to do so to the complete satisfaction of all readers—no doubt the editor himself was compelled to make some close decisions in deciding whether or not to include many other excellent studies in the field.

The book is divided into three parts. Part I, "The Executive and the Organization," is divided into two sections, namely, (A) The Nature and Conditions of Leadership and (B) Training Leaders in Human Relations. This part contains studies by such well-known authorities in the field as Ordway Tead, Chester I. Barnard, Douglas

McGregor, and F. J. Roethlisberger. Part II is entitled "The Worker and the Organization." It also is divided into two sections, namely, (A) Studies in Human Relations and (B) Facilitating Adjustments Through the Counselling Method. Part III, "Critiques," contains articles on such subjects as The Psychology of Participation, Anthropological Engineering, Industry and the Community, and Psychological Studies of Employee Morale. The contributors to Parts II and III are also well-known students in their respective fields.

There can be little doubt that many of the difficulties between management on one hand and workers and unions on the other can be traced to a lack of understanding of the "human factors in management." To the extent to which this book stimulates an interest in and introduces these groups to an understanding of some of these factors, it will make a distinct contribution toward improvement in human relations in industry.

VICTOR KARABASZ

University of Pennsylvania

WARD, ROSWELL. *The Personnel Program of Jack & Heintz*. Pp. x, 146. New York: Harper & Brothers, 1946. \$2.00.

This book provides an extremely thought-provoking, albeit almost totally uncritical, description of a unique personnel and industrial relations program. The outstanding feature of the Jack & Heintz personnel program is that in spite of the fact that its development was entirely intuitive (neither Jack nor Heintz had any technical training in this field), it is fundamentally sound from a psychological and psychiatric point of view.

The success of the program is due to two factors, one of which, the personality of Bill Jack, must necessarily be peculiar to this company; the other, the sound principles on which the program is based, is applicable to any organization.

It is quite clear that Bill Jack is a dynamic, inspirational leader with a knack for being democratic without losing face. In addition, his Horatio Alger background of newsboy to industrialist makes him a dramatic figure with whom his employees or "associates" have great incentive to

identify themselves. As the author recognizes, this is a weakness of the program. There is no one else in the organization who can quite take Jack's place.

The principles of good personnel administration used at Jack & Heintz, which are universal in their application, are essentially the following:

1. *Excellent communication between top management, i.e., Bill Jack, and the rank-and-file associates (employees).* In the downward direction, the use of the public address system permits direct, easily understandable, oral discussion of plans and policies, leading the workers to feel that they are being taken directly into management's confidence. In the upward direction, the use of "Good-Will Ambassadors" as outlets for problems and grievances, the emphasis on settling complaints at the foreman level, and the readiness of top management to listen if necessary, prevent grievances from accumulating.

2. *Efforts to give the employee personal dignity and status.* This is done through the title "associate," the elimination of many petty restrictions and annoyances, and the extension of the employee's right to do as he wishes, e.g., rest when he is tired.

3. *Clear evidence to the employee that the management is genuinely interested in his job security and personal welfare.* This is accomplished through the health program, the loan funds, the vacation policies, free meals, shoes, and so forth. Also important is the fact that the management takes the initiative in correcting unsatisfactory conditions, and does so promptly.

4. *The creation of a strong esprit de corps.* This is done through the motto "One for all and all for one," the emphasis on common production goals, and the use of group pressure—the "wolf call"—rather than authoritarian discipline to keep recalcitrants in line.

The value of the book is somewhat lessened by the fact that the author is strongly partisan in favor of the program. In several instances he compares other companies' policies, practices, and procedures quite unfavorably with those of Jack & Heintz. For all its obvious merits, it is hardly conceivable that the program has

only *one* serious weakness—its dependence on Bill Jack. Taken as a whole, the book would make a greater contribution if its presentation were better balanced.

ROBERT N. McMURRAY

Chicago, Illinois

BRYN-JONES, DAVID. *Toward a Democratic New Order.* Pp. vii, 288. Minneapolis: University of Minnesota Press, 1945. \$3.50.

I wish it were possible within the limits of a brief review to do justice to this essay on the meaning of democracy. The light it throws on the basic tenets of our democratic faith is almost desperately needed.

One central goal of a democratic society is the liberation of the individual not only from the tyranny of the state but also from the more subtle tyranny imposed by poverty, ignorance, disease, and fear. By taking affirmative steps to abolish or alleviate these obstacles to individual development, the political state may make an incalculable contribution to human liberty. Thus, we may realistically distinguish between individualism as an end and individualism as a means. Respect for individuality and regard for the individual personality as an end and not as a means to an end is essential to a free society. But this is not incompatible with a considerable degree of collective action to emancipate the individual from the tyranny of poverty, ignorance, disease, or fear.

"The restrictions on human freedom that are most to be feared today," says Professor Bryn-Jones, "are those that curb and limit opportunity. It is not government that needs most restraint today in order that the individual may be free, but the gigantic forces that have been set in motion by the processes of our vast industrial order. The most dangerous denials of liberty are those inherent in the cramped conditions and the harsh necessities that limit choice, circumscribe action, and stunt the growth of the spirit of man."

This book deserves a wide reading. Not since Leonard Woolf's brilliant essays have I seen such a penetrating or illuminating analysis of democracy as a living faith. Professor Bryn-Jones revives the historical foundations of democratic theory and prac-

tice. There is nothing new or startling in his description of the nature and meaning of majority rule, natural law, equality, fraternity, and the rights of man. But his restatement is clear, succinct, and in spots brilliant. The chapters dealing with "Social Democracy" and "Industry" are free of the ideological exegesis that obscures so much that is written in this field. The author is neither dogmatic nor vacuous. He is objective in presenting his data, but not indifferent to the moral and ethical issues involved. Moreover, there is a clear recognition of the hazardous mission democracy has to fulfill in this world of nuclear explosives and explosive political nuclei. The reader will find not only sound good sense in the chapters dealing with international affairs, but a note of hope.

The theme of this essay might be stated somewhat as follows. "The Democratic State has an ethical foundation and mission. It is to be judged not by its form and structure alone but also by the ends it serves. And these ends are nothing short of the freedom and happiness of mankind."

I do not know Professor Bryn-Jones personally, but the volume reflects a gentle spirit, a fine scholar, a man whose knowledge and faith are proof against both sentimentality and cynicism. Above all, it reflects that rarest of rare gifts, an open mind.

PETER H. ODEGARD

Reed College

BOSSANO, LUIS. *La Evolucion de la democracia*. Pp. 169. Quito, Ecuador: Author, Universidad Central, Avenidsa 12 de Octubre, 1944. No price.

This well-organized little book treats this rather formidable subject in two parts. The first part presents a historical development of democracy as a political institution from its earliest appearance in ancient Greece to its much debated contemporary status as a way of life for the Western world. The second part is an analysis of the conception of democracy.

At the time of Dr. Bossano's writing (1944), the military wedding of the East and the West for the "armed defense of democratic principles" was three years in

the past. The terrific pressure of peace had not yet broken up the marriage between partners ill suited in their democratic background for harmonious living. Consequently, this section ends with a statement of the principles of the Atlantic Charter. Dr. Bossano's observation that the fundamentals and aspirations for which democracy was striving were therein stated vigorously and precisely was a bit premature. The subsequent de-emphasis of the Charter by its framers would surely have altered his viewpoint. In fact, the present snarling and haggling between leaders of professedly democratic states might have caused him to change completely the concluding chapters of this section. With these exceptions, the section is well done, in proper perspective, and with sound judgment.

In the second part Dr. Bossano tries to discover what democracy is and what it ought to be. A lengthy, abstract discussion of goals, values, and motivations tends to confuse the issue. Little is said about the paramount issue of freedom within a planned state. The conclusion is that much planning is necessary. This is to be done through technical councils (*consejos técnicos*) co-ordinated by the state. Citizens living under this new democracy (*Neodemocracia*) are guaranteed security against fear and want. Their well-being is assured by a state motivated only by the highest spiritual values. Admittedly, some planning today is necessary. But individual rights won after years of development should not be lightly surrendered. This reviewer feels that the "sovereignty of law" is much to be preferred to the "sovereignty of the spirit" which Dr. Bossano offers. The solution is disappointing.

The book is in readable Spanish. There is no index, but an annotated table of contents is included.

EDGAR B. CALE

University of Pennsylvania

NEUMANN, SIGMUND. *The Future in Perspective*. Pp. x, 406. New York: G. P. Putnam's Sons, 1946. \$4.00.

Dr. Neumann, former professor of modern history and social sciences at Leipzig

and Berlin, now on the staff of Wesleyan University, has written a brilliant and thought-provoking book. The true function of the historian, according to Dr. Neumann, is that of a prophet who, reviewing past events, "puts before his generation the choices which history had once decreed," thus pointing lessons for the future. In fact, the only sane way of making proper decisions for the future and for keeping proper balance is to view it through a perspective of the past.

Starting with the First World War, Dr. Neumann covers the period of about thirty years through the Second World War, which time he aptly terms the Second Thirty Years War. His work is not so much a factual account of what transpired as a keen analysis and synthesis of events, of underlying causes and effects and policies of men. One outstanding feature of the book is the many vivid pen portraits of the lives, the characters, and the policies of the leading personalities of the time. These sketches are enlivened by numerous life-like drawings by Aloys Derso with which the book is illustrated.

The First World War, which was "not only military campaigns" but "a great political revolution at the same time," was a people's war, and to make the peace a lasting one it would have had to be a people's peace; but the people had not been prepared for it, and the leaders followed public opinion. "National self-determination signified to Versailles what the balance of power had meant to the Congress of Vienna" (p. 85); yet "its strict application violated the laws of economics, strategic necessity, specific national needs, psychological imponderabilities" (p. 85). The "Long Armistice" between the wars was to serve "as a great tryout" of this idea. "It raised the whole issue of nationalism anew, calling for its redefinition and reorientation" (p. 85). Failure to realize this aim resulted in "an atmosphere of hate and persecution instead of international co-operation" (p. 86). The League of Nations, "a necessary complement to the principle of national self-determination," failed, as did Versailles, "largely due to a lack of realization of the conflicting elements in international affairs" and "to the

exaggerated expectations of a world seeking quick peace after a long war" (p. 88).

The terrible bloodletting of the First World War weakened the moral stamina and stability of postwar Europe, which latter was further complicated by political confusion and economic chaos and depression. Dr. Neumann is particularly good in his analysis of German conditions during this troubled period. He does not, however, neglect a keen analysis of the difficulties of other countries and the effects of these difficulties on their policies.

In his chapter "The Dictators March on the World 1934-39," Dr. Neumann recounts the techniques of aggression and the salient features of the crises which culminated in the Second World War. Hitler's New Order in Europe, Vichy France, the reasons for Hitler's attack on Russia, the secret of Soviet strength, the reasons for America's entry into the war, and the role of the Big Three—Churchill, Stalin, and Roosevelt—are outstanding topics of the chapter on "The Second World War."

In an epilogue, Dr. Neumann discusses in a most interesting fashion such subjects as the aftermath of war, the attitude of the veteran and the war worker, whether Germany is capable of real democracy and whether it is possible to extinguish National Socialism, and the United Nations and its difference from the League. In conclusion, he finds it most necessary that the great powers understand one another and co-operate with one another for the promotion of peace. This is especially true of the United States and Russia. He feels that there are many obstacles to such co-operation, but also hopeful factors.

To assure peace, "the concurrent revolution within every nation must be mastered." "This conflict does not even stop on the national plane. It goes deeper still. It reaches the personal sphere. It is a moral crisis: our whole set of values is questioned" (p. 18). "Fascism has been defeated, yet not been conquered. The specter of famine may again drive desperate people into a revolution of nihilism." "Only in a persistent long-range perspective and daily personal endeavor can one impart meaning to the whole drama and win confidence in man's eventual ability to

create the proper conditions of lasting peace" (p. 384). "This is the reason why the short wave of war cannot abruptly end the long wave of transformation that must liquidate the heavy legacy of dictatorship. This is why the United Nations cannot offer a ready blueprint of a world government, but only a forum where the responsible powers must meet and patiently work for coalescence. This is why, above all, it must be a people's peace, if it is to become a lasting peace and a civilization worth living for" (p. 384).

JAMES EDWARD GILLESPIE

Pennsylvania State College

STERN, BERNHARD J. *Medical Services by Government, Local, State and Federal*. Pp. xiv, 208. New York: Commonwealth Fund, 1946. \$1.50.

Any report on "medical services by government" in the United States must take for granted the headaches of both the writer and the reader. Dr. Stern had the task of trying to summarize the variety and the quantity of medical care which governmental agencies provide, and he was under the necessity of making occasional "back flashes" to history. Furthermore, one of the requirements of the study was to present the results in a short book. Working within such limitations, Dr. Stern has come off very creditably to himself and has provided another example of a major problem in the social sciences, namely, the matter of putting in comprehensible form an almost infinite variety of data.

The New York Academy of Medicine, which sponsored this study among many others, undertook some years ago to survey the field of "medicine and the changing order." With vision it has sought to provide a historical perspective for the American people, to outline the philosophy which has guided the medical profession and the public, and to forecast in some measure the changes which are just ahead of us in the organization and administration of medical services.

Dr. Stern has gathered huge quantities of material and has boiled them down to small compass. He presents the essential facts regarding the history and the present situation with respect to local medical serv-

ices to indigent persons and to certain special groups, direct services by state governments and under state-local auspices, Federal grants-in-aid to states and local agencies, the nature and extent of hospital services at all administrative levels, and the direct medical services performed by government. The reader gains a net impression that much more medical service is rendered by government than either the public or the American Medical Association is aware of, and any number of specific examples can be cited to show that such governmental services are growing in something like geometric progression. There is hardly any kind of medical service that is not rendered in varying degree by some governmental agency. We have some health insurance, and we have more state medicine.

But after reading this highly factual study, one has to reflect upon the confused impact which the thousands of specific facts, spelled out paragraph by paragraph, produce. It is impossible for Dr. Stern to give his facts in connected, succinct form so that the mind can comprehend just what has been going on. The social sciences do not have the conceptual apparatus for such genuinely scientific presentation of findings. We are not yet much farther advanced in method, when it comes to comprehensive studies of this sort, than were the reports of Marco Polo or Francis Parkman. It is no detraction from the meticulous piece of work which Dr. Stern has done to make such a remark, because nobody else could have done any better.

R. CLYDE WHITE

Western Reserve University

DESTLER, CHESTER MCARTHUR. *American Radicalism, 1865-1901*. Pp. xii, 276. New London, Conn.: Connecticut College, 1946. Paper, \$2.50; cloth, \$3.50.

In this useful volume Mr. Destler has brought together nine articles and two documents, eight of which have appeared previously in scholarly journals. Among them are essays on western radicalism, the Pendleton plan, and the influence of Edward Kellogg; an interesting chapter on the history of municipal ownership (the Toledo natural gas pipe-line controversy);

and a warm appraisal of Henry Demarest Lloyd which differs sharply from that offered in Allan Nevins' *John D. Rockefeller*, and which brought a spirited rejoinder from Mr. Nevins in the April 1945 *American Historical Review*. Material not previously published includes an analysis of the unsuccessful attempt to form a lasting alliance between Populists and urban radicals in Illinois, and the text of an address by Henry D. Lloyd in which he tried to harmonize Populism with the various types of socialism then being propagated, as the basis of a Nation-wide labor-Populist alliance.

Mr. Destler's investigation of western radicalism is in line with current reappraisals of the Turner thesis which give greater weight to urban and eastern influences on American liberal thought. Thus he finds "urban origins of a number of supposedly rural stereotypes and remedial proposals that Turnerians have regarded as peculiarly western" (p. viii). He shows, for example, how much the antimonopoly and greenback movements owed to eastern pressures, examines the monetary proposals of Edward Kellogg (a retired New York merchant) which were so influential with labor and farmer organizations alike, and discusses the debt of Populism to three decades of western contact with radical and reform movements of the urban world. It is a question, he suggests, "whether, out of the ideological intercourse of country and city there had not developed in the late nineteenth century West a new radical synthesis" (p. viii).

That a synthesis of urban and agrarian radicalism was not only possible but imperative was the belief of Henry D. Lloyd and like-minded Populist leaders. Ideologically it was a problem of reformulating Jeffersonian liberalism to meet the needs of a new age, and of framing a program upon which adherents of the old antimonopoly tradition could unite with proponents of the newer collectivisms. In Illinois, Mr. Destler shows, Lloyd and other leaders were able to draft such a program, which they hoped would be a model for Nation-wide action. But the stresses within the alliance (which included Populists, Socialists, Single Taxers, craft union-

ists, and other shades of opinion) and the opposition of more conservative national labor and Populist leaders caused its early collapse.

RANSOM E. NOBLE, JR.

Pratt Institute

Department of State Bulletin, 1945. Vol. XII, No. 298 through Vol. XIII, No. 340. Washington, D. C.: Government Printing Office, 1945. \$3.50 per year; 10 cents per copy.

This *Bulletin* is a graduate copy of the press releases issued several years ago by the Department of State. It adheres strictly to the stated purposes of furnishing information about the Department, printing speeches of the President and the Secretary of State, publishing the text of certain treaties, and reproducing occasional special articles on international affairs.

The articles are authoritative, interesting, and informative. The style is sound and the format is attractive for the type of publication. A year's numbers make a very impressive volume which every student of international relations should have in his library. It contains a fund of information about world affairs as they concern this country.

Two other publications immediately come to mind in reviewing the *Bulletin*. They are the *American Journal of International Law* and *Foreign Affairs*. There are, of course, in addition, books published by the World Peace Foundation and volumes such as *The United States in World Affairs*, which are closely related to the *Bulletin*. But taking them all together, there is still room for a periodical which in summary fashion will do for international affairs what *Time* and *Newsweek* do for the general news. Such a publication would be a boon to the statesman, the student, and the citizen in general.

However, in terms of its stated purposes, the *Department of State Bulletin* is excellently done.

THORSTEN V. KALIJARVI

Concord, New Hampshire

WHEARE, K. C. *Federal Government*. Pp. 278. New York: Oxford University Press, 1946. \$4.25.

The federal principle is defined as "the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent." However, a state is not necessarily entirely federal, confederate, or unitary. The constitution may belong in one category and the government in another, or a state may contain elements contrary to its primary character. The United States is the great example of the federal type, but the original Constitution embodied one contrary provision—that the Senators be chosen by the state legislatures. The Canadian Constitution is federal from the point of view of distribution of powers, unitary from the point of view of the grant of executive powers, but federal again in that the executive powers are in fact used sparingly. The author concludes that the United States, Canada, Switzerland, and Australia are the existing examples of federal government, although Australia may be moving toward a quasi-federal type.

Factors that seem always to be present when communities form a federation are a sense of military insecurity, a desire for independence from foreign powers, a hope of economic advantage, some experience with a prior political association, geographical neighborhood, and similarity of political institutions. A factor leading to a desire to remain separate inside a union is previous existence as an independent government, provided that attachment is not too strong. If one of the units is too large, as was Prussia in the German Empire, even a confederation may become unitary. If the units are economically weak, financial unification may follow.

With illustrations drawn from the four federal governments mentioned, the author goes into questions affecting the supremacy of the constitution, written constitutions, concurrent powers, the separation of powers, the party system, representation in the legislature, monetary and financial powers, jurisdiction over economic and social problems, foreign relations, and the war power. He concludes with an analysis of the way in which the federal governments have adapted their constitutions and practices to the need for change, and finds a common tendency toward expansion of

the central government. However, he does not conclude that this presages the disappearance of federalism unless wars and economic crises become too prevalent.

The author has made a careful analysis of his subject, and his conclusions are supported by much reference to the actual operation of the governments under consideration.

W. REED WEST

George Washington University

ELTON, LORD GODFREY. *Imperial Commonwealth*. Pp. x, 544. New York: Reynal and Hitchcock, 1946. \$5.00.

The *Imperial Commonwealth* is something more than a narrative account of British empire-building; it is also a conscious apologia. Lord Elton, well known for his Labor sympathies, is not an imperialist in the sense in which the word could have been used of Rudyard Kipling or Cecil Rhodes, but he does feel that the world (and, perhaps, especially America) has done less than justice to British motives and British achievements in India, Africa, and elsewhere. He therefore stresses the better aspects of colonialism—an approach foreshadowed in the short but significant introduction to American readers supplied by Allan Nevins. Perhaps as good a summary of the main thesis of the book as any is in Lord Elton's own words: "The tariff controversy and . . . the universal ignorance of imperial history, were together mainly responsible for a strange, one-sided misconception of the Empire. . . . It was Rhodes and the Boer War, not Burke and Wilberforce, Durham or Livingstone. . . . Many who now learned to think of the typical representative of Empire as some grasping industrialist prompting aggression for his own sordid ends, would have ridiculed the notion that, to the eye of history, the truly characteristic figure was rather the settler, the adventurer, the missionary or the explorer, or perhaps some harassed Victorian Secretary of State, desperately seeking a plausible excuse for not adding to British responsibilities overseas" (p. 442). In short, the Empire was a growth, not a plan; an opening hand, not a closing fist.

The best feature of the book is the

winning charm of its style. Whole epochs are summarized in smiling epigrams, and new light is thrown on familiar facts by the way in which those facts are phrased: "Taxes, after all, are tolerable enough as long as they are not collected" (p. 186); "he [Wolfe] had every qualification for high command, except those which in his day had hitherto counted most, senility and friends at court" (p. 162); "chieftains who had started life as admired mass-murderers would end their days as respectable magistrates" (p. 399); "Gladstone, by turns as coolly calculating as Baring, and as erratic and other-worldly as Gordon" (p. 403). Such good things appear to the reader's delight on almost every page.

On the debit side, it must be said that some careless phrases of the author would give readers unfamiliar with historical details a wrong impression. This is particularly true in the opening chapters. Thus, to say that "Columbus had secured a royal backer, no less a personage than His Majesty of Spain" (p. 16) is to hand Ferdinand laurels that belong with better right to Isabella; and to say that Drake "traced the first circle round the globe" (p. 23) is to omit the necessary qualifying adjective "British," for otherwise injustice is done to the Spanish sailors who served under Magellan.

PRESTON SLOSSON

Ann Arbor, Michigan

DURHAM, JOHN GEORGE LAMBTON. *The Durham Report*. An abridged version with an introduction and notes by Sir Reginald Coupland. Pp. lxviii, 186. New York: Oxford University Press, 1946. \$2.75.

Publication of an abridged version of *The Durham Report* will probably serve a useful purpose in making Lord Durham's more important observations and recommendations on Canadian government familiar to students of British colonial history. The *Report* has become a classic more often referred to than read. Professor Coupland has done a skillful job in cutting out the less significant parts and bringing the whole together in a compact little volume of 186 pages. For readers

not familiar with Canadian history, the Introduction by the editor will prove useful; it offers, however, no fresh interpretation of Canadian political development, and, indeed, reveals a lack of appreciation of some of the more significant work of the past ten years or so.

This is probably not the place to attempt an appraisal of the merits of the *Report* itself. It has been accepted as a great historical document. It may be worth while to point out, however, that its importance has tended to be exaggerated because there has been little else in the way of Canadian political literature to set beside it. There have been no Jeffersons or Hamiltons to state the philosophy of political reform or political conservatism in Canada. The nation was born and has developed out of the forces of counter-revolution; political radicalism has been too weak to give rise to a distinctive philosophy, and political conservatism has never faced the necessity of justifying itself in philosophical terms. Thus the writings of such "radicals" from overseas as Robert Gourelay and Lord Durham have attracted more attention than, as statements of political philosophy, they possibly deserve. There was much in the Canadian political, economic, and cultural situation that Durham completely failed to understand. That was evident not only in his lack of appreciation of the toughness of French Canadian nationalist sentiments but also in his failure to see the political problem in its broad economic setting. Durham, after all, was in the country for only a few months. His *Report* displays all the brilliance of the shrewd outside observer, but it is questionable whether he had any real understanding of the country about which he wrote.

S. D. CLARK

University of Toronto

BLUM, LÉON. *A l'Echelle humaine*. Pp. 215. Paris, Gallimard; Montreal, l'Arbre, 1945. No price.

This book, written in prison in December 1941, is a defense of the author's political activity and directed against Pétain and Laval (without mentioning their names). The first six chapters contain the

arguments against Vichy, and a defense of the French Republic. The seventh chapter draws the conclusions, and the eighth gives an optimistic outlook for the future.

Fittingly, the author starts with a comparison of the defeats of 1870 and 1940. The authoritarian system, rightly considered as the cause of the defeat in 1870, was proclaimed in 1940 to be the cure. Blum stresses that it was not democracy, but its capitalist form that was responsible for this defeat. Most of the fascist arguments against the French Republic are shown to be arguments against its capitalist structure. The defeat and the decline of French society are traced to the decline of the French bourgeoisie, to its inability to form strong parties except when endangered by feudal or labor forces, to its pusillanimous policy. It is a lost class, unable to adapt itself to the necessities of industrial production and the needs of a democratic government. Blum vividly paints the bourgeoisie's lack of vision and enterprise, and its combination of chauvinism and ultrapacifism: the same people who advocated, in 1939, the total destruction and splitting up of Germany were the first to accept the defeat of their country as a victory of their class interests. They did not fear Hitler, since all their possibilities of fear were concentrated against labor.

However, the hope of the French bourgeoisie to regain life by fascism is vain. Blum gives two reasons why the labor class, despite the existence of strong parties, was unable to occupy the vacant throne: (1) The Socialist Party had no clear foreign policy, being handicapped by its pacifist wing. (He might have mentioned his own unfortunate policy against the fascist uprising in Spain.) (2) Moreover, the Socialists were confused by their previous union with the Communists, who were Russian nationalists and consequently opposed the war from 1939 till 1941.

The author's analysis of the French nationalists is excellent. However, his synthesis is weak, meager, and disappointing. His main conclusions are: The parliamentary regime, unsuccessful in France, is not the only form of democracy. A popular democracy must be social. He writes "social"—not socialist—although he advocates

some form of state socialism, filled with liberal ideas. The French social democracy cannot exist without being integrated in a European or even a universal order in opposition to the European order propagated by the fascists. He expects an approach of Russia to the Western world, and asks for a weakening of the frontiers. The Allies must constitute a new League of Nations having a supersovereignty, an executive force, and even a tax system. The new League must be universal; Germany and her satellites, and also the Pope and the churches, ought to be members.

It is impossible to be harsh with an author who frankly states that his whole generation failed in its task, and it would be unfair to judge a book written at the height of the Nazi power from our present situation. Still, it is saddening that European socialism has so little to offer to the solution of our burning problems. It seems that socialist theory became sterile at the very moment when liberal capitalism, its brotherly enemy, ceased to exist.

E. J. GUMBEL

New School for Social Research

JACOMET, ROBERT. *L'Armement de la France, 1936-1939*. Pp. 406. Paris: Les Editions la Jeunesse, 1945. No price.

The Vichy government and many writers have accused the French government of Daladier of insufficient preparedness for the war. Robert Jacomet, who in Daladier's government was Controller General of the Army, and had the supervision of all French rearmament, gives in this book a detailed account of all and every kind of arms supplied to the Army in 1936-39. There was no lack of armaments for repulsing the German assault, but the fault was with the Army command. Tremendous quantities of munitions fell into the hands of the aggressor unutilized and undamaged.

This whole story is not simply a military account. It should be read by all interested in the history of World War II. Jacomet suffered in the days of the Vichy government and was liberated by the underground forces. He is not only one of the greatest military authorities in this

field, still occupying the position of the Controller General, but also is a distinguished specialist in public finance and public budgeting, and one of the leading members in the *Institut de droit comparé* of Paris University. He is also an honorary secretary general of the Ministry of the National Defense and of War.

PAUL HAENSEL

Mary Washington College, Va.

ROJAS, RICARDO. *El Profeta de la Pampa: Vida de Sarmiento*. Pp. xii, 728. Buenos Aires, Editorial Losada, 1945. \$10.00 Argentine.

Of the making of books about the great Sarmiento there is no end, and he himself was a most prolific writer, his collected works filling fifty-two substantial volumes. Consequently, although this Argentine Prometheus died within the lifetime of many people now living, the list of books and articles by and about him has already reached such formidable proportions that it is the labor of a lifetime to become a Sarmiento expert.

Ricardo Rojas is not only such an expert, as attested by his own contributions to the Sarmiento bibliography during the past thirty-five years; he is also a distinguished man of letters, whose influence and renown have extended throughout the Spanish-speaking world. While many of his books and articles have been focused on other themes, most of them are related to one or another of the multiple problems—philosophical, political, historical, sociological, scientific, or literary—which confront the biographer of that many-sided genius, Domingo Faustino Sarmiento, educator, writer, soldier, diplomat, President of the Argentine Republic, and sworn enemy of all tyrannies, whether of the flesh or of the spirit.

This biography is therefore the fruit of a lifetime of labor, and it is worthy of its great subject. Written with exceptional literary skill and shot through with poetry and mysticism, as any true story of this Dionysiac figure's life must be, it is at the same time lucid in its expositions, objective in its appraisals, and scholarly in method, though the scholarly apparatus

is fortunately unobtrusive. Controversial problems are discussed learnedly, errors of earlier writers are corrected, and new interpretations are offered. Probably the most striking of the latter is Rojas' paradoxical thesis (which he develops in several chapters) that the tyrant Rosas was not a federalist but a unitarian, and that Sarmiento, whom Rosas persecuted as a unitarian, was in fact a federalist. Sarmiento himself, while depicted as the heroic figure that he was, is not painted without his wart. His frailties and inconsistencies are not only mentioned but enumerated and insisted upon, and his last and most ambitious work, on the races of America—a work begun in his old age and never completed—is bluntly described as "chaotic and lamentable."

Altogether, this is one of the best Latin American biographies published in recent years. It ought to be made available to a wider audience in this country through an English translation, if only because of the important part that Sarmiento played in the development of relations between Argentina and the United States. Although he was Argentine Minister to the United States, and one of his most important addresses deals with the Monroe Doctrine, the chief significance of his contacts with this country was educational and cultural. Appropriately, the University of Michigan conferred an honorary degree upon him, and in Argentina his enemies promptly took to calling him "the Michigan doctor"—a term of derision in that remote country and period. The parts of the book dealing with this aspect of his career are not among its best, but they are adequate; and the rest is so good that it will contribute greatly to the understanding not only of Sarmiento but also of the nation which he helped to form and in which his name is still the chief symbol of its democratic traditions.

ARTHUR P. WHITAKER

University of Pennsylvania

GERVASI, FRANK. *To Whom Palestine?* Pp. 213. New York: D. Appleton-Century Co., 1946. \$2.50.

Frank Gervasi's *To Whom Palestine?*

asks a very vital question and answers it in a rather too biased way. The author, foreign-affairs analyst for *Colliers*, like most people who have any intimate knowledge of the Palestine question, and like most keen observers who have studied the area in person, has come out of the ordeal (the word is used advisedly) with a point of view so strongly one-sided that truly valid arguments against his beliefs are apparently of little worth or value to him. In this case, Gervasi, originally pro-Arab, has become the strongest of pro-Jewish and pro-Zionist partisans.

The book, with its highly readable style, attempts in too short a space to give all three sides of the question—Jewish, Arab, and British—and then to balance these three against one another to see which emerges with the weight of justice and morality on its side. Probably justifiably, the British come out a bad third; but it is in the weighting of the Jewish and Arab sides that the book shows its greatest weakness (as do most books on the Palestine question). The Jewish case is painted all in white; the Arab one largely in black. It is this that should make the average reader wonder whether the book is pure propaganda for Zionism.

No one who has been in the Middle East recently will deny the amazing job that the Jews have done in Palestine; nor will they, or should they, have anything but respect for this great work. Similarly, few will have like respect for the ruling clique of the Arab countries; but does this, in spite of British promises, make it a moral act for Western Jews to carve a state out of Arab land? The settlement of Jews in Palestine is one thing, but the creation of a Zionist state seems quite another.

A few of the author's statements are highly questionable, such as the one that the Middle East countries have two-thirds to three-fourths of the world's oil reserves, or that Palestine has sufficient natural resources to become an important industrial country. Even authorities such as Dr. Lowdermilk (quoted by Gervasi) have been known to let their enthusiasm overcome their better judgment, as in Dr. Lowdermilk's estimate of the agricultural possibilities of Palestine. Apparently

Gervasi, in presenting his arguments, has done the same thing.

JOHN R. RANDALL

Ohio State University

CHADWICK, H. MUNRO. *The Nationalities of Europe and the Growth of National Ideologies*. Pp. viii, 210. New York: The Macmillan Co., 1946. \$4.00.

Although this work is small, its value lies in its encyclopedic quality. Chadwick has gathered here much useful information on the origins of Europe's various nationalities, making a reference publication of considerable merit.

As a systematic treatment of the growth of national ideologies, the author renders an extremely poor verdict which should be the foundation to the mass of detailed evidence that he presents. Chadwick admits in his opening chapter that "it is not very easy to define what is meant by 'nationality'" (p. 1), and he does not make the problem any easier, since he provides no definition after all. Furthermore, Chadwick seems to typify the tendency toward academic and intellectual "splendid isolation" of his English colleagues—so apparent in the recent English-published volumes which have come to the reviewer's desk in recent years—in terms of utter disregard of what has been contributed to this field by American and European scholars. A few footnotes cite Chadwick, and then again Chadwick; then a few German publications get a grudging notice, next to Runciman and Macartney. But what about Hans Kohn, E. Rádl, and others who had dealt with this whole problem in various ramifications even before World War II? Possibly Chadwick is aware of this weakness, since he provides no bibliography whatever.

Another weakness of the author is his desire to prove his scholarship by spelling Slavonic and other names in the native alphabet; the results hurt.

All in all, the book represents a considerable amount of research. Unfortunately, one is aware of a haphazard and at times slipshod employment of the elements, which do not mix or merge, and often coexist in a clumsy independence of one another.

JOSEPH S. ROUCEK

Hofstra College

SALISBURY, HARRISON. *Russia on the Way*. Pp. 425. New York: The Macmillan Co., 1946. \$3.50.

The author of this book is former chief of the United Press Bureau in the U.S.S.R. who visited the Land of Soviets "for a six-weeks' look"; instead of six weeks he spent eight months. What Mr. Salisbury was able to see and what impressions he gathered during his eight-months' sojourn he has faithfully recorded in his book, *Russia on the Way*. It is not a paean to a victorious nation, but a simple account of an observer who visited a strange land and an unknown people. The narrative is written in a spirit so forcefully urged by the late Justice Holmes, of free thought not only "for those who agree with us, but freedom for the thought we hate." In that alone lies its greatest merit. In an unpretentious, somewhat pedestrian style the author draws before the reader a Russia that has had enough of war miseries and is eagerly awaiting a peaceful future, as all other nations are. Even the Soviet leaders, so often attacked in the foreign press, are presented as men who strive for the same things the Western people do.

Mr. Salisbury's impression of Mr. Molotov differs somewhat from that of the recently given and widely read description in *Life*, of a man whose face is like a football—you always want to kick it. The author found the ogreish Commissar a man of great dignity with a pleasant smile and a masterly technique at press conferences. The second *enfant terrible*, Mr. Vishinsky, is presented as a "man as gifted as the late Franklin D. Roosevelt." He discovered that Stalin is not a sort of Poo Bah, a "Lord High Everything Else," but is subject to at least three separate controls, one of which is Russian public opinion. "I suppose," Mr. Salisbury writes, "most foreigners will be startled at the idea that Russian 'public opinion' exists, or that Stalin is guided by it. This is one of the fundamental misconceptions from which we start our thinking about the Soviet Union. Actually, public opinion is a most important factor in Russia."

Predicting "wranglings and disputes" in the course of American-Russian relations, Mr. Salisbury does not, however, despair.

Amid the turbid tide of antagonism raised by the daily press and the irresponsible rattling of the average citizen who even bets on the day and hour of the inevitable conflict between the two nations, it is a relief to discover a reference to the possibility of peace; it is soothing to a war-weary reader to be reminded of what we were told only yesterday and have already forgotten today, that the fate of tomorrow hinges on peaceful relations between the United States and the U.S.S.R.

The book is a gentle tonic for those who despairingly watch how little by little the good relations are being gnawed away; it is gratifying to those who still retain their faith in the preservation of peace; it might be of benefit to those who already hum a dirge to peace and so flippantly urge an atomic rocket at Moscow. Mr. Salisbury touches only the fringes of the issues at stake, but his book is a reminder of the good relations during the hectic days of war despite the ugly problems with which the Allies were forced to cope, and as such, it makes well worth-while reading.

ANATOLE G. MAZOUR

University of Nevada

MARGOLIN, ARNOLD D. *From a Political Diary: Russia, the Ukraine, and America, 1905-1945*. Pp. viii, 250. New York: Columbia University Press, 1946. \$3.00.

The volume's title is somewhat misleading. Instead of excerpts from a diary, it consists of chapters based (according to his statement) on the author's diaries and notebooks. The work falls in two distinct parts. One deals with events in Russia and the Ukraine from 1900 to 1919; the other with those in the United States after 1922. The first is founded on the author's experiences as a participant in certain phases of the Russian revolutions of 1905 and 1917 and in the Ukrainian movement "for self-determination." Mr. Margolin's work as one of the members of the Ukrainian delegation at the Versailles Peace Conference and at the League of Nations supplied him with unusual and interesting impressions of certain aspects of peacemaking after World War I.

The second part of the book is given to what the author calls "a report of volun-

teer services and informal writings to the Department of State" during the period 1933 to 1943, "undertaken as an American citizen and a student of foreign affairs." The closing chapter contains a criticism of the Yalta and Potsdam discussions and a plea for America to "persuade the present rulers of the U.S.S.R. to accelerate the transition to a democratic regime." It ends on the note that political democracy and civil liberties are not enough, and that without free access to raw materials and without economic democracy for all "there will be no possibility of converting the nations which won the war and those which lost it into that *one world* which was so splendidly drafted by the late Wendell Willkie."

In its first part the volume is written from the viewpoint of a moderate, democratically minded Ukrainian patriot. The second part is drawn from that of an American citizen ardently devoted to the principles of democracy as understood in the United States. These undertones of moderation and democracy are characteristic of the whole book.

The dissolution of the Russian Constituent Assembly in January 1918 provided the impetus for the author's activities on behalf of an independent Ukraine. "It seemed to me then," he says, "that, as a part of such a Union, a democratic Ukraine might become a cornerstone for the future United States of Eastern Europe." The union Mr. Margolin hoped for then was the federation of democratically organized parts of the former Russian empire "outside the control of the Soviet regime," later to be brought into a union with Russia proper "based on the free agreement of all the contracting parties."

After Hitler's advent to power, Mr. Margolin, an outspoken foe of the Soviet form of government, realized at an early date the dire need for Western democracies to reach an understanding with Soviet Russia, and became an advocate of recognition of the U.S.S.R. by the United States. One of the most interesting passages in the book deals with the dinner at which Mr. Margolin talked at length with the then Soviet Ambassador, Mr. Troyanovsky.

The author is rather critical of Mr.

Cordell Hull's statesmanship. He thinks that Secretary Hull's predominant interest in a liberal tariff policy left him and his assistants little time for the consideration of the European problems.

There are numerous cases where this reviewer reads history differently from Mr. Margolin. This does not, however, prevent his recognizing the value of the book as a help toward the understanding of certain phases of Russian history as well as of some of the less-known aspects of Russian-American relations.

D. FEDOTOFF WHITE

Philadelphia, Pa.

VAMBERY, RUSTEM. *Hungary To Be or Not To Be*. Pp. 208. New York: Frederick Ungar Publishing Co., 1946. \$2.50.

America's texts in modern history have been influenced to a considerable degree by foreign propaganda. For instance, several postwar generations of students were brought up on the ideology of the horrors of the Versailles Treaty and the "Balkanized Europe." It was especially unfortunate that this strange propaganda was carried on year in year out by scholars who had never read a line of the Versailles Treaty and knew next to nothing about the "Balkanized Europe." And, what was even worse, these post-World War I historians provided a lot of ammunition for Hitler's aggressive propaganda.

A minor but definite role was played in this respect by the propaganda exerted on behalf of and by Hungary's ruling clique. Even today, many textbook writers are confused by what we classify in this country as "double talk." Hungary's spokesmen always describe their system as a "democracy"—and yet by all means it was semifeudal; Hungary called itself a Kingdom—but there was no king, and when the last King (Charles) tried to return to his Kingdom he was prevented from doing so by his "regent," Admiral Horthy. In turn, Horthy, who ruled the country in the absence of a hypothetical king, insisted on wearing his admiral's uniform although Hungary had not even a seacoast.

Vambery's work is the first definite attempt in English to offset some of the out-

standing propaganda claims of Hungary's historiography. Written by one of the great liberals of our day, the book will correct many erroneous judgments of our historians. For this reason it deserves to be studied by all instructors and writers in the field of modern European history.

Vambéry's one minor slip needs, however, to be noted. He seems to imply that Horthy knew nothing of the coming of Munich (p. 24). Actually, he was offered "a share in the Czechoslovak loot" *before*—not *after*—Munich.

JOSEPH S. ROUCEK

Hofstra College

MYLONAS, GEORGE E. *The Balkan States*. Pp. xi, 208. St. Louis: Eden Publishing House, 1946. \$2.50.

This book is a justification of Greece's territorial claims in the Balkans, with sufficient references to general history to provide a background for the argument. There is little internal balance in the space allotted to different epochs or subjects. This is perhaps because the book is an expansion of a series of studies first published in the magazine *Athene*. Some of the detailed excursions into events of the Balkan Wars (1912–13) or the history of Macedonia will prove bewildering to the uninitiated, for whom the book is supposedly written. The historian will decry the author's sweeping generalizations, his lack of objectivity, and the fact that he presents nothing really new. He is Grecophil, but in the end he hurts his cause by the fact that he cannot discover a single good thing about Bulgaria or the Bulgarian people.

In compressing such a big slice of history into 154 pages—the rest of the text is given over to appendices—it is easy to allow inaccuracies and even one-sided statements to appear. To have Suleiman the Magnificent conquer Tirnovo in 1393 is rather far out of line. Believing that Bulgaria was always Austria's satellite, Mylonas maintains that the Dual Monarchy promised Bulgaria active aid should she attack her former allies after the First Balkan War. To support this view, his primary source is a dispatch of the Austrian Foreign Minister, Count Berchtold.

Without indicating that he has done so, Mylonas stops this quotation in the middle of a sentence. The omitted part of the sentence makes Austrian aid contingent on Bulgaria's first coming to an agreement with Rumania—something the statesmen at Sofiya refused to do. To omit this vital condition is to misrepresent Austrian policy at this period. To make it a virtue that Serbia and Greece did not sign their alliance treaty of June 1, 1913 until the day after peace with Turkey was concluded, without mentioning the secret Serbo-Greek Protocols of May 5 and 17 directed against Bulgaria, is not presenting a true picture. The Treaty of Rapallo of November 12, 1920 did not cede "... the entire area of Northern Epeiros ..." to Greece. In fact, Albania was not mentioned in the treaty at all. There is evidence that seems to indicate that Mylonas at times cites primary sources but actually takes these references from other studies.

The reviewer has no desire to burden this review with an enumeration of incorrect dates or other inaccuracies. Some have been cited to justify his objection to the general tone of the volume. Much that the author has to say about the Macedonian Revolutionary Organization and how the great powers caused unrest in the Balkans by their power politics is sound enough.

E. C. HELMREICH

Bowdoin College

DULLES, FOSTER RHEA. *China and America: The Story of Their Relations since 1784*. Pp. vii, 277. Princeton: Princeton University Press, 1946. \$2.75.

In 1784 the *Empress of China* arrived in Chinese waters with a cargo of fur, raw cotton, lead, and ginseng (this last a drug gathered from the New England woods), and returned laden with tea, chinaware, and silk, not only to net its owners a neat profit but also to inaugurate a lucrative trade that was to grow with the passing decades. Professor Dulles begins with this episode and tells the story of the relations of the American and Chinese peoples through to the end of the recent war. He addresses himself to the general reader, not

to the scholar. It is the story as already known that he here retells.

The book is both soundly written and interesting. The author has read widely and accurately, chosen his materials with a keen eye for the significant, and written in a simple and direct style. The interest of the book is enhanced by the good use of romantic episode and colorful detail. The reader learns that a sailor named Terranova was forcibly removed from his ship in pretreaty days and put to death by the Chinese authorities for a crime not proved against him; that alone among the members of Congress John Quincy Adams understood that in the first Anglo-Chinese war England was fighting to force China, not to accept opium, but to recognize England as an equal; and that the clipper *Rainbow* set a new record in the China trade by making the voyage from New York to Canton and back in six months and fourteen days.

Although relations between the two peoples have in the main been friendly, dark shadows have appeared. The darkest chapter in the story is the treatment by Americans of Chinese immigrants to the United States. The Chinese began to arrive in numbers after the discovery of gold in California. They were welcomed at first: there was room and work enough for all. As the number increased, cordiality gave way to distrust and discriminatory legislation and mob action followed. The most spectacular instance of violent mob action took place in 1885 at Rock Springs, Wyoming, when twenty-eight Chinese were killed.

Professor Dulles has produced what now becomes the best available book for introducing the general reader and the undergraduate student to the subject it treats:

RALPH A. NOREM

Oshkosh State Teachers College

CARLSON, VALDEMAR. *An Introduction to Modern Economics*. Pp. xvii, 337. Philadelphia: Blakiston Co., 1946. \$3.50.

The distinctive feature of this textbook, which is designed for beginners in the formal study of economics, is Keynesianism. The favorite remedy for unemployment—

the unemployment incident not only to cyclical depressions but also to unproved "secular stagnation" in an unproved "mature economy"—is "compensatory spending" by government. During depression, the government is to offset deflation by spending more than it receives from taxes. (Why emphasis should be placed on increasing the *amount* of money, by governmental borrowing from banks, when deflation stems mainly from a decline in the *circulation rate*, is none too clearly explained.) In a period of inflation, the opposite policy is to be followed.

Of course there is something in this. In view of the fact that the quantity and the circulation of currency are highly elastic, Keynes made a solid contribution in attacking the unrealistic character of the classical assumption that production is automatically attended by effective demand for products. And yet, as a practical device for curbing depressions and booms, the proposal has grave shortcomings, because it proceeds on unrealistic assumptions of its own.

Take depressions first. Compensatory spending, assuming that it succeeds in making aggregate business costs and incomes equal, is no guarantee that income will even approximately equal cost in the case of any given industry or firm: it does not cope with structural maladjustments. However, we should not mistake for a reality the assumption that equality between the two aggregates would probably be established by any given program of government spending. We have much too little tested knowledge of the "propensities" to consume, to save, to invest, to slow down the circulation of money by piling up idle balances.

Next take booms. What is to be done about the well-established "propensity of government" to deflate less than it formerly inflated? And what about the curious assumption that internal debt is not to be worried about, since "we owe it to ourselves"? By the same token, apparently, retiring the debt could not hurt us, since we should then be *paying* it to ourselves. Such liberal British economists as Pigou, Delton, and even Keynes, have been so impressed by the evils of internal debt that

they have advocated a capital levy to reduce it. Professor Carlson, arguing that only the interest on the debt (which, by the way, we also owe to "ourselves") need concern us, proposes to reduce the "interest" rate as the amount of the debt increases. Apparently following Keynes, he assumes a tendency of the interest rate toward zero. But it should be reasonably clear, since different agents of production can be widely substituted for each other, that the marginal product of one agent would not reach zero until the marginal products of others did—that is, when all goods became free goods, and when, therefore, all economic problems disappeared. Moreover, the tendency of capital accumulation to depress the interest rate is offset by the tendency of improvements in technique to raise it. Thus it looks as if we are invited to hold the money rate of interest chronically below the real rate—a device favorable to the booms which bring on depressions.

At the same time that he undoubtedly made a contribution to economics, Keynes produced a plethora of new terms for old ideas and treated old ideas inadequately. His disciples have gone far toward erecting an imposing program of reform on hypotheses which are neither verified nor carefully analyzed; and they seem to have been oblivious to, if not cheered by, the potentialities for economic and social totalitarianism implicit in their plans. Rightly or wrongly, the reviewer feels that there is no great hurry about making compensatory spending the central feature of a textbook for beginners.

BRUCE KNIGHT

Dartmouth College

SWANSON, ERNST W., and EMERSON P. SCHMIDT. *Economic Stagnation or Progress*. Pp. xi, 212. New York: McGraw-Hill Book Co., 1946. \$2.50.

One opens this short volume of readings with high hopes. The title indicates that the book deals with a fundamental economic problem. The preface states the purpose of the volume as follows: "If nothing else, it will help show that many economists, both of the chair and elsewhere, have not accepted the maturity—

oversavings—deficit-spending thesis; that if our world appears to be mature and overripe, it is not because of some inner compulsion in the economic process but because through public and private policy we have not allowed economic progress to flourish." From this one is led to believe that after demonstrating the shortcomings of the stagnationists, the authors will indicate how public and private policy has balked economic progress and what might be done, concretely, to further it.

A great deal has of late been written on maturity, oversavings, and deficit spending. The most important recent book on the first of these subjects is George Terborgh's *Bogey of Economic Maturity*, of which one finds only a brief mention and no "readings" in the book here reviewed. On oversavings, the outstanding series of volumes by the Brookings Institution on *Income and Economic Progress* is not even mentioned. On deficit spending, only passing mention is made of Harold G. Moulton's *New Philosophy of Public Debt*. Regarding Keynes's general theory itself, the present reviewer devoted 75 pages to an analysis of it in his recent *Social Science Principles*. The more important implications of Keynes's theory as bearing on secular stagnation seem to have been completely overlooked by the authors.

This situation becomes increasingly evident as one proceeds with the author's comments on their selection of readings. Broad platitudes seem to be the best that they are able to bring forth. For example, we are told that the real issue is a "clash between progress and security" (p. 7); that for economic progress all that is needed is "the rebirth of belief in the future, and the chastising of the doubting Thomases" (p. 41); that with respect to depression the "final goal should be the restoration of a highly flexible market structure so that disproportionalities in investment may be minimized through more effective allocation of resources" (p. 107); that, within certain limits, the public budget should be in balance (p. 129); that monetary-fiscal policy should be "based on rule rather than on authoritarian discretion" (p. 141); that "progress means change and, therefore, instead of each individual seeking to

fix his own position, all must learn to seek and want the new!" (p. 151).

Such platitudinous pabulum is rather discouraging. Among the readings themselves, limited as already indicated, there is more substantial food. But one has a right to expect from the authors some kind of drawing together of the argument and delineation of suggested solutions. Nevertheless, in the summary of Keynesian fallacies (pp. 158-72) we find the following six appraisals, set off in italics:

1. The quest for security embodied in the Keynes-Hansen philosophy may, more than any other cause, bring lasting unemployment.

2. The seeking of security has been made the football of political expediency.

3. A program for full employment through centralized authority cannot be justified by an appeal to the concept of relatively declining consumption expenditures.

4. Investment by private enterprise does not depend alone on the amount of consumption and therefore upon "the underwriting of consumption" through continuous deficit spending.

5. Economic progress still requires saving and underconsumption as a primary cause of depression is an illusion.

6. Economic progress still depends upon the advance of specialization of labor and machinery and upon "a climate favorable to risk-taking."

Finally, under the heading of "Some Positive Elements of a Program" three conclusions are drawn (pp. 183-97):

1. Reflecting upon the behavior of all the factors or agents of production, over the last score of years restrictionistic practices have been generally intensified, while the Second World War, if anything, intensified these developments. It is necessary therefore that government set a new course, trim its sails, and move against restrictionism on a wide front.

2. The extensive expansion of world trade and prosperity up to the First World War was perhaps largely the by-product of the Pax Britannica of the nineteenth century. The world will not see such growth again unless the promise of security from new wars carries conviction.

3. Our program also calls for a monetary-fiscal policy that will not inhibit economic progress. Government taxing and spending coupled with money manipulation should be

stimulatory to and not depressive upon individual initiative and enterprise.

The implications of such generalities are clear enough. But we may agree or disagree with them (especially as to the meaning of "restrictionism") and still be no nearer to grappling with insistent economic problems which the stagnationist philosophy has at least served to highlight.

JOSEPH MAYER

Brookings Institution

LYNCH, DAVID. *The Concentration of Economic Power*. Pp. x, 423. New York: Columbia University Press, 1946. \$5.50.

This highly useful volume is devoted to an analysis of the hearings (but not the monographs) published by the Temporary National Economic Committee, or TNEC. In twelve chapters, Dr. Lynch describes some of the political and economic events that led up to the creation of the TNEC; gives a brilliantly penetrating account of the qualifications and predilections of the original members of the Committee (and says nothing about some much more influential successors); concisely summarizes the testimony and some of the more important disclosures, findings, and recommendations therein; and, basing his appraisal on that relatively minor part of the work of the TNEC embodied in the oral hearings, gives an interesting account of the contributions and role of congressional investigations in the functioning of the American political system.

Among others, economists are deeply indebted to Dr. Lynch for doing so useful and laborious a job, even if his attention was limited to something less than the totality of TNEC presented fact. As was stated by the chairman in italics at the very beginning of each one, the monographs were deliberately designed to have the same status as other evidence presented to the Committee.

Sometimes without adding, much less underscoring, the qualification "in oral hearings," Dr. Lynch charges the TNEC with ignoring, or presenting no data on, phenomena (e.g., p. 144, "lobbying"; p.

169, "use of government regulation for monopoly purposes"; p. 282, "trusteeship of corporation executives"; p. 361, "tariffs") so thoroughly examined and documented by competent experts in authoritative monographs that the latter are being used as textbooks; e.g., Professor Donald Blaisdell's *Economic Power and Political Pressure*, which was published as TNEC Monograph No. 26.

Even in the limited assignment undertaken, there are inadequacies. No mention is made, for example, of the original document containing the TNEC idea; yet numerous copies of it were circulated about various executive departments and among interested congressmen in the winter and spring of 1936. I refer, of course, to the report made in December 1935 to the Senate Committee on Manufactures by Leon Henderson and Theodore J. Kreps, entitled *On the Necessity for an Inquiry Into the Status of Competition*. This report relied heavily on the famous report in 1935 of the Royal Canadian Commission on Price Spreads. From it (not from Means or Berle) was developed the idea for focusing such an inquiry on the various manifestations and ramifications of concentration of economic power. From it, too, came suggestions concerning organization, techniques, goal, use of monographic studies, and so forth. Contrary to Dr. Lynch (p. 21), there did exist a plan, one that had helped to stimulate several proposed congressional resolutions; but of course there was no inflexibly detailed blueprint insensitive to democratic reformulation and amelioration.

Again, can one implicitly rely on newspaper stories (as Dr. Lynch does in Chapter 2) for details concerning so-called inner New Deal political battles, including the allegation (p. 36) that Senator O'Mahoney was "slated for the purge"? Those with firsthand information are skeptical.

Finally, as far as Dr. Lynch's appraisal is concerned, one wonders whether sufficient time has elapsed for an authoritative verdict. Things loom large now that in perspective may become relatively unimportant. Dr. Lynch's praise and strictures may both prove not fully merited or correctly applied; but no one can deny that

he has tried hard to make an impartial, objective evaluation, much the best that has appeared thus far.

THEODORE J. KREPS
Stanford University

HARRIS, SEYMOUR C. (Ed.). *Economic Reconstruction*. Pp. xii, 424. New York: McGraw-Hill Book Co., 1946. No price.

This volume is based largely on a series of lectures delivered at the Graduate School of Public Administration of Harvard University in 1944. Twenty-two persons contributed, covering the postwar outlook in agricultural, industry, employment, and special problems of reconversion, dealing with Manpower and Liquidation of War Production, Future Economic Controls, Monetary and Fiscal Problems, International Economic Relations, and Social Security.

The editor, Professor Harris, stresses that the twenty-two collaborators are not members of any one school: "They are stagnationists and anti-stagnationists, New Dealers and its critics, supporters of deficit financing and adherents of a balanced budget." Nevertheless, the whole trend is clearly New Deal. The editor himself repeats the necessity of Federal spending as an important means of "finding employment for at least 90 per cent of those genuinely seeking work," and makes various other purely New Deal recommendations.

Unfortunately, there has been no revision of these articles which were prepared in 1944, and they are based mostly on material that should have been revised for a book appearing after the victory. There are not very many concrete and definite recommendations for postwar reconstruction; the book is mostly a discussion of possible conditions, transitional and in the long run. Of course, it was difficult to make any substantiated prophecies long before the victory day.

I do not know what advantage it was to have several persons write on practically the same subject, as: Fiscal Policy in Economic Reconstruction (J. Colm), Postwar Tax Structure (R. Blough), and Postwar Tax Program (A. H. Hansen), particularly

since some of their basic viewpoints appeared in print elsewhere. There are some highly surprising statements, as, for instance: "Experience [?] reveals that a fiscal program which balances the budget and retires the debt at a rate of \$1 billion a year, *regardless of fluctuations in the cycle, may lead to disaster.*" (Professor Harris against Professor Lutz.)

Unreasonable is the fear of indirect taxes and particularly sales taxes (p. 18). It is strange to condemn the general sales tax as curtailing the volume of mass purchasing power. The effect of the tax depends on where the collected money goes; since all tax revenue is immediately spent, it increases the nation's purchasing and benefits the masses, if used for increased social security. The sales tax never did any economic harm in the field of state finance.

Culminating the sympathies for the New Deal philosophy, Professor Sweezy is an enthusiast for government borrowing, and for him "the great advantage of borrowing over taxation is that it scoops up saving wherever it may be without in the least disturbing consumption." Professor Sweezy seems to disregard the fact that government borrowing creates an idle class of coupon-clippers, and apparently he is unfamiliar with the great saying of Mirabeau: ". . . to borrow instead of taxing is an unheard of charlatanism." If people have money to buy government securities, why not take the same amount in taxes?

PAUL HAENSEL

Mary Washington College, Va.

RADIN, GEORGE. *Economic Reconstruction in Yugoslavia*. Pp. xii, 161. New York: King's Crown Press, 1946. \$2.50.

This brief volume, prepared under the auspices of the Carnegie Endowment for International Peace, is devoted almost exclusively to problems affecting agriculture and the rural population in Yugoslavia. It is chiefly the work of United States experts, most of them in the employ of the Department of Agriculture, who remain anonymous.

The book represents an attempt to place before the people of Yugoslavia, as well as

before the people of similarly situated countries, the best information available in the United States for use in postwar reconstruction. The obvious over-all aim of the writers is to indicate how the standard of living of the rural population can be raised. The contributors feel that this can best be done through the implementation of well-defined plans by the co-operative movement, which had made notable progress in prewar Yugoslavia. They do not, however, overlook the necessary role to be played by government if the plans are to succeed.

The initial chapters deal with the problems of reconstruction and with an appropriate approach to them. The bulk of the volume is concerned with over a dozen suggested programs for agricultural reconstruction. Among them are: "A Farm Home Living Program," "The Improvement of Beef Cattle," "A Suggested Seed Production Program," "A Program of Insect Pest Control," "Electrification," and others. The final chapters deal with the problems of agricultural education and research, and the future of Yugoslavia's agricultural economy.

We find here a valuable summary of Yugoslavia's most acute prewar problem, made more acute by the ravages of war. In the hope that its findings may be utilized by the present government, the work is being translated into Serbo-Croatian. Whatever constructive use the present Yugoslav government makes of this study, there is little likelihood that it will be openly acknowledged. Mr. Radin's close association with previous Yugoslav governments will preclude that, even though the book is devoid of political discussion. Moreover, the emphasis on independent co-operatives may not be received favorably. While the present government favors co-operatives, it insists that they must operate within the framework of a broad governmental plan.

To anyone interested in the Balkans, there is ample evidence here that the agrarian problem, with which all of them have been concerned, goes much deeper than the mere need for redistribution of the land. There are a number of useful statistical tables. Unfortunately there is

no index, but in such a slender volume this is not an unpardonable sin.

ALEX N. DRAGNICH

Western Reserve University

CHASE, STUART. *For This We Fought*. Pp. xii, 123. New York: Twentieth Century Fund, 1946. \$1.00.

Results of Army surveys and civilian polls lead Mr. Chase to conclude that veterans and civilians want economic security and lasting peace above everything else, in this, the final title in a series of six exploratory reports on postwar questions written by him for the Twentieth Century Fund.

In the "Showroom of the postwar world" the dealers are offering four standard models. Model A—*A Mixed System, More or Less Hit and Miss*—is one in which government, business, labor unions, farm blocs, co-operative associations, and nonprofit enterprises all make important economic decisions and struggle for power without much sense of direction and with no one responsible for anything until a serious emergency arises. We now operate under this system. Model B—*A Mixed System with Direction*—continues the present system but includes a group of citizens in the administration and Congress which is responsible for maintaining national economic stability through planned manipulation of taxes, credits, and public works. Model C—*An Automatic Competitive System*—involves a return to the free competitive economy of the nineteenth century. Model D—*The Authoritarian State*—is on display at J. Stalin Co., Unlimited, Moscow, U.S.S.R. German, Italian, and Japanese models have been taken off the market. Axle trouble. An all-out, planned, and centralized economy is featured.

Mr. Chase believes that Models C and D are not likely to be purchased by the United States, and that Model A, which involves "planning by ear" and meeting crises only after they assume serious proportions, is "terrifyingly obsolete," offering neither security nor continuity of employment.

Model B leaves the showroom of the postwar world in a cloud of mixed metaphors and becomes "The Middle Road"

with ten major items on its agenda. Government aid for scientific research, a Stabilization Board to set up instruments to record what is happening to our economy, compensatory financial devices for smoothing out the business cycle, a flexible double budget, and a practical formula for keeping strikes and lockouts at a minimum are some of the sales features of the favored Model B.

Model B can be maintained in good running condition only if each politician becomes acquainted with scientific method and with his responsibilities in the Atomic Age. ("No Congressman should ever be permitted to open his mail in the morning without finding several postcards inscribed 'E = MC²—What are you doing about it?'") Schools and the press must place far more emphasis on mathematics, logic, semantics, straight thinking, and the scientific attitude.

Guiding purposes and principles are lacking on the contemporary American scene, and *For This We Fought* provides pleasant reading and a basis for discussion of some of the possible alternatives.

A. H. HOBBS

University of Pennsylvania

NELSON, DONALD M. *Arsenal of Democracy: The Story of American War Production*. Pp. xviii, 439. New York: Harcourt, Brace & Co., 1946. \$4.00.

This book is a chronicle of our war production. Being so, it could not escape being partially an autobiography of its author, who was the top planner of our war production in the crucial years 1942–44, and who during those years contributed the utmost to the success of the United States as the arsenal of democracy. Donald Nelson had the confidence of F. D. R., of F. D. R.'s New Deal advisers, of businessmen, of Congress, and of the people. Through a happy combination of personality, tact, and intelligence he could handle everybody and every situation—the inevitable exception being the Army. His is indeed a success story of our time. By the peak of the war our economy was producing more for war than it had ever produced for peace, and at the same time our civilian economy retained a remark-

ably high—perhaps too high for wartime—standard of living. Donald Nelson was responsible for much of this success.

The *Arsenal of Democracy* contains many interesting and some unknown historic facts: the pros and cons of successive government agencies which in turn assumed responsibility for defense and war production; the unpublicized efficacy of ex-Secretary Morgenthau in getting matériel to our allies prior to Pearl Harbor; the constant struggle with the Army over allocation of materials, the size of the war program, the maintenance of the civilian economy, and reconversion; the numerous attempts by other agencies to snipe at the War Production Board's control over materials; the struggle to give labor some influence over the production process; the details of and the conflicts among the "must" programs—shipbuilding, octane gas, landing craft, rubber; the never ending struggle between large business aided and abetted by the Army, and small business supported by Congress, the administration, and Mr. Nelson; the inadequacies of the priority system and its supplementation by "Allocations," "Requirements," and the "Controlled Materials Plan."

Of course, the whole story of war production or of the WPB is not told here. The country did a superb job in the war, as the author argues. Fortunately this proved to be enough; but it was a gamble, and the stakes were high. We might have lost. In some respects the Army may have been right. This was not total war as suggested by the Army or, say, Burnham in his *Total War*. Despite all the "central planning," our civilian consumption rose by 20 per cent during the war. Does this not reflect a failure to deny our civilian economy adequately? Was not civilian consumption in the years 1942-45 about \$80 billion more than it had to be? Was the system of allocations, priorities, and other controls as tight as it might have been?

Again, there was much agitation for a program of genuine concentration of industry and simplification of output, and for more real co-operation between the War Production Board and the Office of Price Administration. All of these would

have saved materials, reduced costs, helped to stabilize prices, and thus contributed to the winning of the war. Support for these programs in high circles was, however, only lukewarm. We might also ask why the number employed in distribution remained relatively stable during the war.

Finally, although all would agree that the dollar-a-year man made important contributions to winning the war, many would not support Mr. Nelson's complete whitewashing. The system was full of pitfalls. Many of the dollar-a-year men were more interested in protecting the interests of their firms or industries or learning about their rivals than in winning the war.

But let us not be overcritical. In Donald Nelson the country had an unusual public servant. He will go down in history as the top strategist for a production program which attained the impossible.

SEYMOUR E. HARRIS

Harvard University

BIGHAM, TRUMAN C. *Transportation: Principles and Problems*. Pp. xviii, 626. New York: McGraw-Hill Book Co., 1946. \$5.00.

This is a textbook dealing with the economics of transportation in the United States. Attention is centered on the intercity agencies of transportation, such as railways, inland and coastwise waterways, highways, airways, and pipe lines. Only incidental reference is made to street railways and ocean shipping. The several agencies of transportation are treated from the functional standpoint as parts of a whole; and though the major emphasis is upon the railroads, as is only appropriate in view of their relative importance, the other agencies receive their due share of attention.

The framework of the book follows the usual pattern. There are chapters on the contribution of transportation, its history, its geography, and transportation theory. There are four chapters on state and Federal regulation, nine on rate making, including valuation and rate of return, and seven dealing with service, securities and reorganization, combination, labor, public aids, government ownership, and future regulatory and promotional policy. There

are numerous figures and footnotes, and ample references at the end of each chapter.

There is much paraphrasing of other texts, and at times an excess of detail, notably in the discussion of public aids to transport industries (pp. 541-56), but the treatment is sane and well balanced. As this is the first suitable text to appear since 1941, its wide use may reasonably be anticipated, although the war period is given very little attention. Two pages are devoted to the war measures of the government regulatory agencies, and two pages to labor disputes during the war, but this is practically all.

The concluding chapter sets forth the author's views on the improvement of transportation policy. He believes that the Interstate Commerce Commission should have jurisdiction over all modes of transportation, including air transportation; he advocates pooling the proceeds of horizontal rate increases under the authority of the Commission; he favors railroad consolidation, subject to Commission approval; and he would permit integration of transportation agencies, so that it would be possible for a company engaged in one form of transport to engage in any other form. Though he favors increasing the effectiveness of regulation by some reorganization of governmental procedure, he opposes—and rightly so—transferring the Interstate Commerce Commission (or any of its important functions) to the Department of Commerce or placing it under a Secretary of Transportation in the President's Cabinet.

ELIOT JONES

Stanford University

Clough, Shepard B. *A Century of American Life Insurance*. Pp. xiv, 402. New York: Columbia University Press, 1946. \$4.50.

The hundred years of the Mutual Life Insurance Company are in fact the history of American life insurance in general. From 1843 to 1943, hardly anything of importance in American life insurance happened which did not leave its impressions in the records of the Mutual. It is one of the most typical old American companies,

the first still in existence to insure the general public on a mutual basis. There are three epochs of its development.

The first twenty-seven years, 1843-1870, are marked by "the establishment of the fundamental procedures and practices which were to make life insurance one of the most successful and one of the largest of American financial enterprises." The Mutual contributed considerably to the scientific bases of insurance, especially mortality tables.

After this pioneering period, during the thirty-five years 1871-1906, which brought competition of the severest kind, although the Mutual retained for the most part its primacy from the point of view of size, "it tended to be a follower rather than an initiator of current practices." There is much reason for the Mutual to be proud of this fact, for quite a number of the new developments—and among the many new types of policies "some of doubtful merit"—were not to the credit of our insurance. The Armstrong Investigation of 1905—Charles Evans Hughes being its counsel—"the most thorough legislative investigation that has ever been conducted," disclosed many extravagances in the insurance business. "The Mutual Life was no worse an offender than most other companies." The legislation of 1906 changed profoundly the operations of the companies, without, however, challenging their fundamental concepts.

From 1907 a new era of all our life insurance companies begins. The thirty-six years up to 1943 are characterized by an enormous extension of the whole institution—the successful effort to liberalize the policy conditions, to promote the ethics of the business and the ability of the army of salesmen, to make the large investments secure, to introduce better mortality tables and more reliable selection of risks, and on the other hand, to achieve a more reasonable geographical limitation. In almost all progressive innovations we find the influential and leading role of the Mutual clearly outlined.

Without doubt, the book is to be highly recommended to both the insured and the insurance officials. It delineates in an excellent way the important role life insur-

ance plays in our Nation more than anywhere else in the world. Let us hope that scholars, also, will not fail to study this work. Then, perhaps, it will help to overcome the traditional mistreatment of insurance by many of our economists who often regard it as being only business. The author, professor of economic history at Columbia University, well known among social and political scientists, proves the need to take life insurance into consideration in all our teaching of economic matters.

ALFRED MANES

Indiana University

BARTLETT, ROLAND W. *The Milk Industry*. Pp. xii, 282. New York: Ronald Press Company, 1946. \$4.50.

This book contains a great deal of interesting information about the milk industry. It is a combination of several things. In the first part the author presents an analysis of the milk industry and discusses a number of factors which underlie its successful operation. At the same time, he encompasses a larger field and presents a philosophy of how the economic system should be operated in order to function successfully. The second section of the book presents three rather technical studies of aspects of the milk industry, which have been prepared by specialists for inclusion in the book.

The author's fundamental thesis seems to be that a prosperous milk industry depends in large part for its success on a well-operating, full-employment economy. He views with suspicion the usual Keynesian doctrines, and would seek successful operation of the economic system through elimination of monopolistic practices and by steady pressure toward lowered prices. These arguments have been presented primarily for businessmen charged with the operation of the milk industry. Economists will be familiar with them. The material directly related to the operation of the dairy industry will be of more general interest, since much of it is new and unavailable elsewhere. Lowering prices for milk means, of course, a search for methods of economical operation and elimination of monopolistic prices. Hence the

author examines the possibilities of lowering distribution costs and farm costs of producing milk. On the restraint side, trade associations, labor unions of drivers in the distribution field, and the various state milk control boards, as well as the Federal program of market orders, all come in for examination. The multiplicity of overlapping health ordinances is effectively discussed in the special report that constitutes the last chapter of the book.

The largest portion of Part II deals with an analysis of the interrelations of retail prices, fluid milk sales, and consumer incomes, in twenty-eight cities. The period covered is usually 1934 to 1941, and the cities are largely those in which Federal orders are in effect. The principal factors responsible for differences among the cities seem to be retail prices, the level of consumer incomes, the store-wagon differentials, and the proportion of the population composed of Negroes. In a general way, it is possible to explain on the basis of these factors not only the difference in the basic levels of milk consumption between cities, but also the individual city trends and fluctuations.

WARREN C. WAITE

University of Minnesota

THOMPSON, WARREN S. *Population and Peace in the Pacific*. Pp. 397. Chicago: University of Chicago Press, 1946. \$3.75.

Dr. Thompson's thesis is the potential danger to world peace in the differential growth of population. The peoples of western Europe, North America, Australia, and New Zealand have almost reached the point where births and deaths are equal. Dr. Thompson predicts that the "stationary" countries will have a smaller and smaller proportion of the world's population, and will therefore decline in relative power. He believes that the Russian bloc, Japan, and most of South America will continue to increase in population for several decades before they too join the ranks of the "stationary" peoples.

Most of the book deals in great detail with India, China, and southeastern Asia. Throughout the whole area the birth and death rates are very high; but the latter is falling, particularly in India and south-

eastern Asia. Dr. Thompson ascribes this to the rise in the standard of living and the introduction of medical and health measures by the British and other colonial governments. The result is that in India, for example, the annual growth of population is 5,000,000. The author believes the same process is about to take place in China. Ultimately the birth rate will fall, as it has done in the West; but the author does not look for this during the next half-century. By that time he believes that the population will have grown from its present 1,100,000,000 to 2,000,000,000. Dr. Thompson examines in great detail the natural resources of the area, and he produces cogent arguments to prove that they are inadequate to support almost twice the present population and also raise the standard of living. The author believes that pressure of population will keep living standards close to the present subsistence level. The one exception is southeastern Asia, where there is ample room for expansion.

The only real remedy is a drastic fall in the birth rate; but as a stopgap, Dr. Thompson advocates unrestricted immigration of Indians, Chinese, and Japanese into Africa, southeastern Asia, and possibly Australia and New Zealand. This will be distinctly unpopular with the local inhabitants, because of the exploitation they have suffered at the hands of the Chinese and the Indians. That is shown by the massacres of Indians and Chinese in Burma, Malaya, and Java. The author admits that the relief afforded by heavy emigration will be merely temporary, since it will result in a further decline in the home death rate; but he fears that the alternative to emigration will be a race war between Asia and the West.

LENNOX A. MILLS

University of Minnesota

SCHECHTMAN, JOSEPH B. *European Population Transfers, 1939-1945*. Pp. xi, 532. New York: Oxford University Press, 1946. \$5.00.

As a full actual report on the organized removal of German ethnic minorities from their homelands during World War II, their subsequent resettlement in territories

under the sovereignty of the Reich, and the transfers of Russian, Finnish, Swedish, Bulgarian, Rumanian, Hungarian, Croat, and other groups, this book has no competition. Although the author was obviously hampered by an overabundance of material, he handles his topic competently and has not allowed his presentation to be ensnared in various legal and other technicalities surrounding the problem of population transfers. We are given a complete picture of these transfers, drawn with due regard for all the complexity of attendant detail—the choice of administrative personnel, registration of evacuees, transportation, housing, feeding, medical care, and the many economic considerations, such as compensation of the evacuees for the property they were forced to abandon, and their economic re-establishment in the area of resettlement.

The work also contains much accessory information which would be extremely hard to find elsewhere in such a compact form—including the extent of the territorial changes. There are numerous weak spots, of course, here and there. For instance, most of the references quoted are in German. Schechtman could have strengthened his treatment by referring also to numerous studies in other languages, including the publications of the central-eastern European governments in English. Much could also be said regarding the mental attitudes of the minorities subject to this problem.

It is also to the author's credit that he is not blinded by the prevalent idea that federalism could solve all minority difficulties in the part of the world under consideration. He propounds that "the transfer of a minority group from one state to another, if agreed on by the interested governments or by an authorized international body, would be considered an all-inclusive measure. But if any individual should desire to be exempted from the transfer . . . complete and speedy assimilation would be the fate of the optants" (pp. 477, 478).

JOSEPH S. ROUCEK

Hofstra College

ODUM, HOWARD W., and KATHARINE JOCHER (Ed.). *In Search of the Re-*

gional Balance of America. Pp. 162. Chapel Hill: University of North Carolina Press, 1945. \$3.00.

In this special issue of *Social Forces*, brought out as one of the sesquicentennial publications of the University of North Carolina, a number of sociologists join in an appraisal and review of the achievements of the Institute for Research in the Social Sciences over the past quarter of a century, and in a general discussion of some of the present trends and problems characteristic of the South. With justifiable pride, the North Carolina sociologists pause in their labors in the regional vineyard to review their achievements and to measure the scope of their professional work for the future. There are few departments of sociology in American universities that have such an enviable record in social research, and certainly none can equal the University of North Carolina in its program of research in the field of regionalism. The accomplishments of the Institute are a tribute to the resourcefulness and leadership of Professor Odum.

As one might expect from the title, the volume is heavily weighted with the philosophy of regionalism. The first three articles, by Odum, are a restatement of his philosophical point of view that has distinguished regional investigations conducted at the Chapel Hill institution. The reviewer found Jocher's descriptive article on the regional research and planning laboratory one of the most interesting in the volume, and one that could profitably be read by all sociologists who have an interest in building an organization for a research program. Several guest contributors have pieces in the volume, including William Fielding Ogburn and Ruth Landes, who attempt an interpretation of the culture of the South from the point of view of an outsider. Ogburn's article deals in such broad generalities that a refutation of it would probably be fairly easy.

It cannot be denied that the regional approach made by Odum and his associates represents a genuine contribution to sociological theory and social planning. There is at times, however, a vagueness in the writings of Odum which tends to becloud some of the issues to be defined for scien-

tific inquiry. Perhaps this is because he is better as a philosopher with a flair for the literary than as a scientist dealing with cold facts. In reading these and other published materials on the theory of regionalism prepared by the North Carolina sociologists, the reviewer is always impressed by what appears to be a lack of emphasis on the role of cities in the South. Perhaps this is because the southern area is essentially rural in its culture, and because many of the problems about which Odum and his colleagues are concerned stem from maladjustments in farm and village life. Since the South is apparently destined to become increasingly urbanized, and since cities, large and small, will play a greater role in social and economic affairs in the future than even at present, both research and planning should take more fully into account these developments if regionalism as propounded by its advocates is to measure up to the claims that are made for it.

NOEL P. GIST

University of Missouri

JUSTEMENT, LOUIS. *New Cities for Old.* Pp. v, 232. New York: McGraw-Hill Book Co., 1946. \$4.50.

Mr. Justement has long been a leader among architects in his home town of Washington, D. C., in considering the social, economic, and political complex within which the rebuilding of cities must take place. He has put many years of thought and experience into a lucidly written, reasonable book. He sees the inadequacy of a program put through by selfish pressure groups and the improbability of arousing an apathetic electorate; he proposes instead "to discover a trend in political developments and frame a program that has a good chance of survival because it is based on . . . probable long-term trends rather than immediate political expediency."

The wave of the future on which Mr. Justement places his surfboard is the necessity of governmental intervention to prevent depressions and to maintain full employment by a compensatory budget of public expenditures. He relies on Temporary National Economic Commission data on spending, saving, and lending. He

agrees with Alvin Hansen that urban redevelopment offers an enormous field for activity where some government spending will energize and activate tenfold private investment. This year that wave does not look so powerful as it did when Mr. Justement wrote; but we must hope that it is only temporarily obscured.

Mr. Justement sees that one of the most upsetting obstacles to fresh investment and physical redevelopment is our failure actually to destroy obsolete buildings when they are written off on the accountant's ledgers. He sees the folly of public acquisition of slums for resale, creating a futile cycle. The land should be rented for a period related to the life of the proposed structures—not a 99-year period based on medieval English legal customs.

Mr. Justement proposes a Federal Urban Reconstruction Corporation, making loans and grants to metropolitan-wide Municipal Realty Corporations. (He perspicaciously recognizes that the states are the source of enabling legislation, but have no fiscal role here.) He is in favor of yield insurance to stimulate direct investment. He sees the dangers in some aspects of bureaucracy, but is clear that governmental intervention is needed. He correctly insists that the financial scheme must be linked to a physical plan, and offers some interesting maps and pictures of the past of his home town and its possible future.

The book is altogether a reasonable, lucid, helpful exposition, including some proposals that may turn out to have bugs in them, but warrant thoughtful consideration.

CHARLES S. ASCHER

New York

LASCH, ROBERT. *Breaking the Building Blockade*. Pp. xiii, 316. Chicago: University of Chicago Press, 1946. \$3.00.

This book is an excellent piece of liberal journalism by a Rhodes scholar, Nieman fellow, now editorial writer on the *Chicago Sun*. During his period at Harvard he came in touch with the thinking of Gropius, Wagner, Hansen, and Greer in regard to cities. He has studied Colean's *American Housing*. He has had the guidance of

Wirth and Blucher in Chicago. He has followed closely the proposals of the leaders in the National Housing Agency, as stated in their pamphlets and their testimony before Congress.

The program that Lasch enunciates is substantially that embodied in the Wagner-Ellender-Taft bill. The book might be viewed as a sustained editorial in support of that program. It is one of the two best introductions to the postwar housing problem for the intelligent layman. The other is Dorothy Rosenman's *A Million Homes a Year*. Hers is a simpler statement; Lasch's is written with heightened fervor and passion.

It is sometimes not clear whether Lasch is thinking of physical plant or social organization when he says that the modern city does not function well. He covers in his analysis the basic elements of land, materials, disorganization of the industry, capital, governmental financial aid, and the relation of housing and planning.

This book has been unfairly characterized as propaganda for public housing. Lasch devotes a chapter to taking apart the sophistries with which its opponents attack public housing. Only at one point am I unable to follow his explanation, where he falls into the common error of comparing the taxes collected on slum land with the contribution in lieu of taxes by the new housing project, to prove that it is "subsidy without cost." Taxes come out of the incomes of people, not out of land: the correct comparison is with the amount previously paid by the tenants of the housing project, wherever they lived. Lasch, writing as a good journalist, with the best tutelage, has not fully absorbed all the material put before him. Thus, it is not meaningful to say that "most cities are overzoned"; it is not made clear that zoning is only one legal control tool under the police power to implement a plan.

These are, however, minor errors in a hard-hitting, well-written book that should be of great usefulness in explaining to the interested layman what the Government is trying to do to break the housing blockade and why.

CHARLES S. ASCHER

New York

GRAY, GEORGE HERBERT. *Housing and Citizenship: A Study of Low-cost Housing*. Pp. xiv, 254. New York: Reinhold Publishing Corporation, 1946. \$7.50.

This encyclopedic work is clearly a labor of love. Major Gray, who died before its completion, was a lovable senior member of the fraternity of architects, who as teacher and practitioner early became concerned with the growth of cities and the social implications of slum clearance and low-cost housing. In this volume he has traversed the "Historic and Philosophic Background of Housing" and "The Social, Economic, and Technological Background," including sections on housing in New York City, England, Holland, Denmark, Sweden, Germany, France, and Russia; on population, culture, environment, and family income distribution; on urban deterioration and redevelopment; on housing costs and design (under which he treats briefly of land and taxes); and finally, on Federal housing agencies and their significance. All of this is in 254 double-column pages, with 42 plates, each of which has crowded on it six or eight plans, elevations, or perspectives of housing projects and sites, many of which can be studied effectively only with a magnifying glass.

The author states that "much of this book was written when the recent world turmoil was in its early stages . . . publication has been delayed in large part by a sequence of priorities, affecting particularly the plate work." It is perhaps for that reason that the creation of an Office of Defense Housing Coordination by the Council of National Defense seems to him a *ne plus ultra*. He speaks of a Presidential Order of early 1942 "merging all war housing (excepting . . . rural housing . . .) in the Federal Public Housing Authority," completely missing the significance of the creation of the National Housing Agency. Indeed, his very last page, in a "review and appraisal" of Federal agencies, comes back to a reiterated proposal for a Federal Council on Housing based on the Central Housing Committee of the early New Deal. It is hard to understand how an observant person in touch with the facts of the world could even in 1942 see

that fumbling committee as anything but a makeshift.

Major Gray's volume is largely derivative. Thus much of the case history of New York City is "taken from 'Slums and Housing,' by James Ford." His statements about the work of Federal agencies are largely taken from summary articles in the Housing Yearbooks of the National Association of Housing Officials. This method of compilation is justified if the author's purpose is to lay the base quickly for critical or reflective comment, to erect an edifice of theoretical conclusions or proposals. I have unhappily to report that I do not find that edifice in the book.

Perhaps my teeth are set unduly on edge by the errors of fact that hit the eye of even a casual reader on page after page. The Administrator of NHA was not Thomas Blandford (p. 37); the Commissioner of FHLBA was not Alexander Fahey (p. 229); Werner Hegemann was neither "Hegeman" (p. 246) nor "Hageman" (p. 166); Hans Blumenfeld is not "Blumfield" (p. 111).

Major Gray's friends would have served him better by a rigorous editing of his manuscript. The present work does not do his memory justice.

CHARLES S. ASCHER

New York

LANG, OLGA. *Chinese Family and Society*. Pp. xii, 395. New Haven, Conn.: Yale University Press, 1946. \$4.00.

Olga Lang's penetrating study of Chinese family and society is an invaluable source of information for all who desire to understand the transformation of the basic institution of Chinese society. First, with broad strokes, we are shown how the old-style family of more recent centuries was a central support of the authoritarian imperial regime. Miss Lang believes that its principal social function was its conditioning of the young to complete subordination to authority. A brief sketch of the structure and relationships of the old family is followed by a description of the trends that have affected the family in the modern period. Particular stress is put on industrialization and on the modern educational movement.

The contemporary family is classified principally under occupational and regional categories—families employed in rural areas, those living in nonindustrialized cities such as Peiping, and those in Shanghai and other large cities. The principal source of information is data gained from questionnaires and interviews.

The contemporary Chinese family as depicted is in many stages of transition. In broad outlines, however, there are certain well-marked trends discovered which indicate where the weakening of authority, the strengthening of initiative, and the breaking of the bonds of former fixed relationships are most frequent. The most striking of the changes are among the upper-class professionals and industrialists and among the modern student class. There is rapid change, although not so thoroughgoing, among the industrial workers of the cities, who, by necessity rather than choice, find themselves parts of new-style families. Wage-earning women workers are gaining independence, self-respect, and authority. The peasant mind and ways change most slowly of all, and in nonindustrialized cities the elements of the old pattern tenaciously persist.

A few of the striking contributions of this study will be briefly enumerated. Facts are ably marshaled to show that the size of the family under every income group increases rather than decreases as income rises—a trend which is the reverse of that maintained in most Western countries. Miss Lang holds that the "joint" family where several generations live together is common only among old-style upper-class groups. She contends that the "joint" family has never been the prevailing type in China, where the "stem" family and, more recently among moderns, the "conjugal" family are the common types.

Another striking discovery from Miss Lang's study is that in the past and the present, the central place of affection in the family is given to the mother. The picture that the grandmother dowager frequently rules supreme even over the grandfather is denied. My own observations of Chinese life would lead me to question the author's position on this point.

In the chapter on nepotism, the dilemma

of those who have to choose between old customs and obligations and larger community loyalties is sharply portrayed. The weakness of the questionnaire method when used in China, where people like to reply, especially to foreigners, as they think the Westerner wishes, is revealed most clearly in this chapter.

The author claims that she has established through statistical data the fact that modern marriages of young people who choose their own husbands or wives score much higher in happiness than the ancient type. It should, however, be remembered that under the old marriage system young people did not expect happiness—of the type that moderns seek. This makes the comparison different.

The most detailed and one of the best chapters is on Chinese youth. Their changed attitude toward authority and their great capacity to compromise are well portrayed. Some youth accept authority unquestioningly, others completely rebel against it, while still others appear to be turned loose on society without parental guidance.

Miss Lang's conclusion is that young Chinese intellectuals, who, she claims, still come from the upper and middle classes, still possess many of the characteristics of their forefathers. The yardstick used is youth in Russia, where intellectuals recruited from all strata in society are now completely emancipated from past tradition and they idealize "men of will power who know what they want and get it done." Although Miss Lang concedes that modern young Chinese are more socially minded, more appreciative of military valor, and more interested in serving their country than their forefathers, she still feels that they have not gone far enough. We wonder whether Chinese youth may not be groping for a synthesis of old and new and be averse to revolutionary radicalism.

The author would be the first to admit that it is unfortunate that her study closed in 1937. The extent of the transformation which the war has brought about is another large field of research.

We are indebted to Miss Lang for this clarifying picture of the trends of family life in modern China, spread before us in

a book which is probably the most careful work in this field in the English language.

J. STEWART BURGESS

Temple University, Philadelphia

FEI, HSIAO-TUNG. *Peasant Life in China*. Pp. xx, 300. New York: Oxford University Press, 1946. \$3.50.

Dr. Hsiao-Tung Fei, a disciple of the late anthropologist, Bronislaw Malinowski, has followed faithfully in his master's footsteps in describing the economic life of a Chinese village called Kaihsienkung, in the Yangtze Valley, from the functional point of view. Being himself a native of this area, the author is able to penetrate the problem with sympathetic understanding. Dr. Fei rightly claims that "an intensive investigation of a small field of this kind is a necessary supplement of the broad surveys made of present-day economic problems in China."

In this study, Dr. Fei has uncovered two of the most basic economic problems of China, namely, the agrarian problem and the problem of industrialization.

1. *The agrarian problem*.—Although the peasant's life in Kaihsienkung has its own peculiar ecological factors (such as water canals, silk industry, and others), its land problem is not fundamentally dissimilar to that found in other parts of China. According to Fei's data, "more than two-thirds, or 76 per cent of the total population are mainly engaged in agriculture" (p. 139), and "about 90 per cent of the population in the village have less than ten mow or 1.5 acres of their own land" (p. 192). It is evident that the Chinese peasants are on the verge of starvation. The Kuomintang-Communist conflict would be unnecessary if they would listen to Dr. Fei's advice that "there should be no political differences among the Chinese upon these fundamental measures" (p. 5).

2. *The problem of industrialization*.—While the agrarian problem is the basic one, the problem of industrialization seems to capture more attention from the Western world. There is no question as to the rapid industrialization of China in the next few decades; but *how* it will develop is an important issue which the Chinese people have to decide. The study on "The Silk

Industry" (Chapter XII) certainly has a wider implication and application than its content reveals. In the opinion of the author's master, Malinowski, this is "the most significant achievement of the book. It is an account of a planned change from domestic industry into a readaptation to co-operated work compatible with modern conditions" (Preface, p. xviii). Further studies on this culture process, however, are imperative before China can guide her industrialization program into the most profitable channels; and, as Dr. Fei has aptly stated, "the country [China] cannot afford to waste any more of her wealth and energy in making mistakes" (p. 4).

Furthermore, the author has pointed out some of the inadequacies of the existing educational system (pp. 39 and 237) and of the attempt to achieve social reform through legislation. Some American social scientists will also be interested in Dr. Fei's findings on the size of the Chinese peasant family, the sex ratio and so forth. Dr. Fei's study is not conclusive in any sense, but it is fact-revealing. It lays the foundation for further studies of Chinese society.

DAVID T. C. CHENG

University of Pennsylvania

TUCK, RUTH D. *Not With the Fist*. Pp. xx, 234. New York: Harcourt, Brace and Co., 1946. \$3.00.

Mrs. Tuck, long known as a friend of the Mexicans, records in this book her eighteen-months' observations in a small southwestern city which she calls "Descanso" or a "wayside refreshment" or "resting place." But, oh, what a refreshment place this is!

In its essential features the picture is not new; it has been told many times, by various authors, in various forms, but it cannot be told too often. It is not the picture of Mexican-Americans alone; it is that of most minorities which have looked to America to "feed the awful hunger of their hearts" (Percy MacKaye), but whose members have often gone to the grave with parched tongues and broken hearts.

The physical scene is that of almost any "small city" west of Chicago. And beneath that profound aridity we see the

usual spiritual scene: expropriation, ruthlessness, domination, stratification, ugly segregation, low occupational status, racial "superiority," scapegoating, and all the other procedures familiar all over the land. Even Juan Pérez and family, described in sympathetic detail, are part of the general tragic scene.

Yes, there is some "acculturation," some "remodeling," some attempts made to resolve the dilemma; but culture roots run deep, the cracks in "our poor earthenware" do not heal, and cultural chasms remain. Classes and the caste system continue, leaders do not lead, institutions are rigid, associations are dominated by the powerful few, "communication" does not breed communion, and there is the specter of "nativism." One would sincerely wish, with Mrs. Tuck, that we could build bridges of understanding and devise ways for learning and, more important, for transmitting what we would learn.

Mrs. Tuck makes a strong appeal indeed to Descanso's citizens, to the police and the press, and she hopes that the "veteran" may contribute to basic solutions. In the Epilogue she deals Descanso, the Southwest, the United States, the whole Western world a rounded, poised lashing. She is firm and intrepid, and she has hope: "The courageous and consistent fight being waged against racism and scapegoating is spreading. It is beginning to bear fruit in such practical ways as the removing of discriminatory legislation, improved economic conditions and educational opportunities for minorities, and in the growing conviction that crude prejudice is simple ignorance" (p. 231).

One might carp about this business of teasing the reader with fictitious names of places ("Descanso") which has become so common since *Middletown*, and which only serves to distract the reader's attention. It is part of that cultural crudity and immaturity—not on the part of the author of this book—that refuses to face reality and compels us to blah-blah the banal cry "any similarity is purely coincidental," et cetera, et cetera. Also, one might wonder what good the author expects to do by this "academic tainted" picture. Surely she cannot hope that "influential" Descansans

will be elevated and stirred into reform by this picture. The reviewer wishes that the author had depicted the actual actions of men, had made the reader feel the feelings of people at work, at play, in their conflict, rather than reporting what people said or said that other people said. But he will not quarrel over these things. As a whole, this is a *good* book. It is accurate, frank, courageous. It is tender, delicate, earnest. In parts it is forceful. And it will breed hope.

CONSTANTINE PANUNZIO

University of California, Los Angeles

BARUCH, DOROTHY W. *Glass House of Prejudice*. Pp. ix, 205. New York: William Morrow & Co., 1946. \$2.50.

Although the aims of this volume are praiseworthy and need the support of every right-thinking American, the reviewer is puzzled as to the reasons prompting the publication of the book. There is not a single idea, thesis, or fact here that is novel, and many researches already accomplished in the field are not noted here. E. S. Bogardus' classic work in this area (*Immigration and Race Attitudes*, 1928) is not noticed at all; and this applies to numerous other well-known studies.

If the purpose of Miss Baruch was to emotionalize the problem of prejudice, the study will serve for those who want information presented to them in a diffuse and somewhat undigested form. Dr. Baruch believes that prejudice is curable by "getting at the truth," "recognizing our resentment," and "testing your own reactions." But such "solutions" certainly fail to recognize the difficulties of irrationalism and the related causes of social competition and conflicts. For instance, we find here much about the problem of housing for the minorities. But is not that difficulty inseparably related to all sections of the American public, rather than to the minorities alone?

There is no question that the author is honest in her dealing with the phenomenon of prejudice. But our feeling is that she has muffed a real opportunity of dealing with her topic in a satisfactory manner, even though she has achieved a moderately entertaining surface survey of the

problem studied and restudied in recent years by numerous specialists and organizations.

JOSEPH S. ROUCEK

Hofstra College

BEARD, MARY R. *Woman as a Force in History*. Pp. viii, 369. New York: The Macmillan Co., 1946. \$3.50.

This book was written with the object of advancing "knowledge pertaining to the man-woman relationship" (p. 20), in the belief that the uses made of that knowledge will determine "forevermore the power of men and women to control themselves and the instrumentalities at their hands in the struggle *against* disruptive forces of barbarism and *for* the realization of the noblest ideals in the heritage of humanity" (p. 332). The author finds that thinking on the relationship, during more than a century, has been corrupted by a false tradition—the tradition that woman has been a subject race *throughout* history. This tradition she subjects to minute scrutiny.

Beginning with reminders of the many ways in which recent warmaking has posed the man-woman question, Mrs. Beard goes on to explore the manner in which women and men recently have been speaking about women. She finds that the vast majority (and Americans especially) have been far too prone to accept uncritically statements regarding subjection embodied by Sir William Blackstone in Volume I of his *Commentaries on the Laws of England*, first published in 1765. This short cut to legal learning slighted the roles played by equity and by custom in amplifying the recognition of women beyond the narrow confines laid down by common law in the strict sense. Blackstone's influence persisted over a century, despite exposure of some of his shortcomings by certain British jurists and by such Americans as Jefferson, Kent, and Story. The fiction of woman's age-long subjection has been accepted by both sexes. Using that premise, most of the suffrage leaders (such as Stanton, Gage, Mott, and Anthony) have gone on to preach woman's emancipation, while most male commentators have proceeded to ignore or minimize woman's participation,

ascribing intellectual inferiority to her. In these practices it appears that historians and political scientists have sinned more than psychologists and sociologists.

The author painstakingly marshals legal and other evidence from ancient, medieval, and modern times, which evidence reduces the "dogma of woman's complete historic subjection to man" to nothing more than a "fantastic myth" (p. 144). She explores many facets of civilization which are often by-passed by historians; and sociologists should be particularly interested in these facets. The desire to guard her argument beyond serious refutation probably accounts for what appears to some readers to be an overrepleteness of detail. An excellent, 26-page, illustrative bibliography, plus numerous other works cited in the text, testifies to the thoroughness of the exploration. The personal situation and prejudices of Blackstone and other disputants on the issue are furnished, to illuminate their various viewpoints. In this connection it would have been interesting to learn whether or not the marriage of the not-too-well-heeled Blackstone to the daughter of a landed gentleman brought him that control of a wife's property which he so emphatically endorsed in his *Commentaries*. At any rate, readers cannot escape the demonstration that an individual's personal situation is inseparable from her or his written output.

In the political field, women have functioned as a force with less recognition than in other fields; the reasons for this are numerous, but they are not so much enlarged upon in this volume. Since Mrs. Beard has made a lifelong study of woman as a force in history, she doubtless could further develop this particular aspect of the problem, to our enlightenment. She stresses the world's need for better utilization of woman's talents. They are nowhere more needed than in politics, if it be true that no civilization can rise higher than its government.

JEANNETTE P. NICHOLS

Swarthmore, Pa.

SPERRY, WILLARD L. *Religion in America*. New York: The Macmillan Co., 1946. \$2.50.

As a result of a six-weeks' sojourn in England this past summer, during which I was in more or less intimate contact with several of the Free Church leaders, I became more than ever convinced of the necessity of making American religion intelligible to our English contemporaries in the interest of world understanding and co-operation. Pretty generally, the English churchman misunderstands the American religious situation, and out of that misunderstanding has come wrong judgments and a tendency to underestimate if not to depreciate the part religion plays in American life. The Cambridge University Press, which inaugurates with this volume a series on "American Life and Institutions," could have chosen no one better equipped to perform the task of explaining American religion to the English than Dean Willard L. Sperry. A Congregationalist, a former Rhodes Scholar—Queen's College—with an Irish-Anglican wife, Dean Sperry has enjoyed numerous residences in England, while his long deanship of Harvard Divinity School has given him intimate understanding of the total American religious scene.

The present book is the American edition of the Cambridge University Press volume which appeared last autumn, and is unchanged except for the addition of a brief Foreword to the American readers. In this Foreword the author points out that the book was prepared for an English public and must be judged by its American readers in the light of that fact. His purpose is to explain to Englishmen American religion as it is today, with only enough of the historic background to make clear how things came to be as they are. The unconventional style and the wealth of pertinent allusion make the book easy and delightful reading, and the purpose for which it was written could hardly have been better served.

There are thirteen chapters in the main body of the volume with eight appendices, compiled by Mr. Ralph Lazzaro, instructor in Harvard Divinity School, which will serve to answer almost any factual inquiry. In the two chapters on "The Denominations" perhaps there is too much space given to the sects and not enough to

the main streams of American Protestantism. This, however, the author defends on the ground that his purpose was to point out differences rather than likenesses between the American and English religious situations. The chapter on American Roman Catholicism is based on a single recent Roman Catholic book, Theodore Maynard's *The Story of American Catholicism*, on the ground that the author desired to give a fair and unprejudiced picture of American Catholicism. He states that to this day, to a majority of Americans, "the Roman Church is an alien fact." The chapter on the Negro church is most sympathetic and understanding, as is also his chapter on church union. In fact, taken as a whole, the book, judged by its purpose, is a brilliant success.

WILLIAM W. SWEET

University of Chicago

ARCHER, JOHN CLARK. *The Sikhs: A Study in Comparative Religion*. Pp. xi, 353. Princeton: Princeton University Press, 1946. \$3.75.

The Sikhs form only approximately 1 per cent of the population of India. Probably more than 1 per cent of the literature of India, however, deals with the Sikhs. The interest in these people has extended well over a century and has been about equally divided between their military prowess and their religion.

According to its subtitle, Professor Archer's book should reflect primarily this latter interest. Yet because he is concerned with the total phenomenon of Sikhism, his pages cover religion, military prowess, recent politics, and past history. Such things as architecture and art are included, and, in addition, the book contains a new translation of the *Japji* of Nanak, founder of the religion. This study of Sikhism and its sects both places the religion within a lay framework and accounts for the other religions with which it came into contact.

Sikhism grew out of Hinduism in a time when the Moslem domination of northwest India had given rise to political and spiritual unrest. Professor Archer follows the Sikhs through the ensuing four centuries

into the period of contact with Christianity and the development of a Sikh theology fostered by the modern Khalsa seminary at Amritsar. Masses of valuable detail on people and circumstances accumulate along the way.

This approach to Sikhism stems from Professor Archer's main theoretical premise, which is here abundantly justified: "The problems of any one historic, religious movement cannot be solved, its fortunes secured and its objectives realized, by itself alone. These ends come only in relationship with other faiths, with those especially which are contemporary and contiguous . . ." (p. 334). Living religions are not isolated phenomena, but are deeply rooted in the historic past. From this it follows that missionary religions are seldom successful, and then only after a period long enough to allow for general alteration and mutual adjustment.

These are the main theoretical considerations. Although various other generalizations appear throughout the pages, they are nowhere fully worked through. This is not in itself a fault. With a theoretical base that is broad and readily accepted, the author need only devote himself to the Sikhs and a complete account of their intellectual milieu. He is free to draw on his wide reading and his personal knowledge of the people. This is, therefore, almost entirely a comprehensive and factual account of the rich tradition which is Sikhism.

MARIAN W. SMITH

Columbia University

MUMFORD, LEWIS. *Values for Survival*. Pp. 314. New York: Harcourt, Brace & Co., 1946. \$3.00.

Most of what is contained in these collected essays had already been said by the author. Resorting to one of Mumford's phrases, it can be said with fairness that he has become "damvably iterative." I shall not attempt to repeat his well-worn thesis, but shall confine my remarks to the one essay in this collection which contains directions for achieving that redemption of which Mumford has been an ardent advocate. This chapter is called "Program for

Survival," and is to be considered as a continuation of his far more important book entitled *The Condition of Man*.

The basic theme of this essay may be summarized as an injunction to make a dynamic application of old principles. Mumford first of all elaborates the famous prophecy of disintegration pronounced by Henry Adams in 1905, and then proceeds to an eloquent appeal for a bona fide world government endowed with the power "even [to] outlaw scientific investigation" and to exact from nations a surrender of privacy, secrecy, and sovereignty. The force which has moved him to this extremity is, as might have been imagined, the atomic bomb.

The remainder of the chapter consists of a series of imprecations of which the following may be taken as samples: ". . . we must conquer our aggressiveness, our pride, our insularity, as well as our inertia. . . ." ". . . we are concerned with the radical making over of the personality of modern man." ". . . the re-education of man is the key to his immediate safety and his ultimate salvation." ". . . the place where the controlling transformation must take place is in the individual personality." ". . . Man must achieve wisdom before he can use his knowledge; he must be transformed at the core before he will be able to control the periphery." ". . . power must become the willing servant of love."

Right-minded persons will certainly agree with most of these prescriptions, but as one reads page after page consisting of "musts," one is driven to ask in a very loud voice, "Yes, but HOW?" By what means is the individual to begin his personal transformation? Where is the lever?

Speaking as one who has in the past defended Mumford, one who still believes he has something important to say, and one who insists that he can at times write the most refined English prose, I am now compelled to admit that there is no more precious ore in the vein which he has so assiduously explored during the last quarter of a century—unless, perchance, he is now able to give some practical instruction or conduct some concrete experiment which will bring his theories and his hopes into a realm of action. I wish he had

saved the good title which adorns this volume for a better purpose.

EDUARD C. LINDEMAN
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JOHNSON, WENDELL. *People in Quandaries*. Pp. xiv, 532. New York: Harper & Brothers, 1946. \$3.00.

This is an effort to apply the constructs of General Semantics to the problems of personality and behavior disorder. Almost three hundred pages go into an attempt to bring Korzybski's *Science and Sanity* to the place where it can be understood by the ordinarily intelligent reader. Then 170 pages review all of the personality (and many of the behavior) disorders of man—a show of generalization that quite outdoes anything that the author so accurately and correctly criticizes in the first two-thirds of the book.

The book is clearly written and is easy reading. The (first) part that explains what General Semantics is about can be heartily recommended as an immunizing dose for all that great number of workers who should struggle through Korzybski's writings. True to the master, it holds hope for the future only through the scientists and the psychiatrists. (But as page 280 tells us of "the inadequacy of most scientific writers," and as this reviewer is sure that most psychiatrists are completely innocent of any knowledge or practice of Korzybski's teaching, there does not seem to be much hope.)

All of the ills (and goodness for that matter) of man can be seen as facets of the problem of psychosexual development. For Wendell Johnson to be critical of this and then proceed to subsume the whole matter under the steam roller of faults in the process of generalization—well, the very lion he set out to tame has gobbled him up. Here and there a real person in a real quandary is given a few sentences. But there is not enough of this to outweigh the generalities of what was meant to be a clinical section of the book.

There are sixteen "semantic exercises" to help the novitiate. These are meant to call attention to faults in the use of lan-

guage. Obviously, everyone would give himself a perfect mark for each exercise; it is hard to see where growth is to occur.

About twenty closely written pages on suggested research problems in the language structure of the individual present a sound method of approach. The reader who would wish something more "practical" must realize that this whole group has a tremendous amount to offer to us in the important area of communication—but that much painstaking work in the area of pure science must come first.

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SCHMITT, MARTIN F. (Ed.). *General George Crook: His Autobiography*. Pp. xviii, 326. Norman, Oklahoma: University of Oklahoma Press, 1946. \$3.00.

"We cannot afford," declared Lord Acton in his *Lectures on Modern History*, "wantonly to lose sight of great men and memorable lives, and are bound to store up objects for admiration as far as may be; for the effect of implacable research is constantly to reduce their number." General George Crook may not have been a military genius, but his character and career were such as to deserve far more attention from historians than they have hitherto received. This lack of notice can be blamed partly on the General's own modesty and reticence. As he himself observes in his autobiography where he closes his account of his Civil War experiences, "it was not what a person did, but it was what he got the credit for doing that gave him a reputation and at the close of the war gave him position."

That Crook played an honorable and mostly successful part in the Civil War is evident from impartial sources. Though he was an officer of the Regular Army who had re-enlisted in the Volunteers, it was the ability he displayed as a soldier that won him steady promotion and finally the strong approval of General Grant. Yet the main events of Crook's military career and the chief basis of his claim to a high place in the annals of the United States lie elsewhere. It was as an Indian fighter and,

even more, as an Indian pacificator and manager, that he showed his most outstanding merit. Here he was face to face with questions whose solution called for insight, originality, and integrity, as well as courage and skill in battle. That General Crook possessed all these qualities in abundance is revealed by his outstanding success for almost forty years, in the most difficult situations throughout the West, in meeting the Indian problem. His success in this field becomes all the more conspicuous when it is contrasted with the lamentable record of our Indian policy as a whole.

In view of these facts, the publication of the present autobiography will be gratifying not only to students of the American West in the latter half of the nineteenth century, but especially to all those who are aware of the General's career and worth and who would be glad to see greater historical justice rendered to him. Hitherto the only published account of Crook's life has been that of his friend, Captain John Bourke. The document now presented for the first time was unknown even to Bourke, and has been rescued from oblivion by the present editor. It covers the period from 1852, when its author graduated from West Point, to June 18, 1876. General Crook was born in 1828 and died in 1890. The years not dealt with in the autobiography are filled in by the editor from other sources, many hitherto unpublished.

Mr. Schmitt deserves much credit not only for bringing to light the Crook autobiography and other new material, but also for his excellent work on this occasion as an editor and an annotator. He is painstaking, accurate, and objective, consistently supplying just the amount of information which is required while remaining unobtrusive. It is to be hoped that he will do further work of this sort.

JOHN PERRY PRITCHETT

Queens College of the City of
New York

DE FOREST, JOHN WILLIAM. *A Volunteer's Adventures: A Union Captain's Record of the Civil War*. Pp. xvii, 237. New Haven: Yale University Press, 1946. \$3.00.

BEATTIE, EDWARD W., JR. *Diary of a Kriegie*. Pp. vi, 312. New York: Thomas Y. Crowell Co., 1946. \$3.00.

John William De Forest is a novelist who has written about war from firsthand knowledge gained as a combat infantryman. As a captain in the Twelfth Connecticut Volunteers during the Civil War he served in the expedition against New Orleans in 1862, in the campaigns in Louisiana, in the investment and capture of Fort Hudson, and in Sheridan's operations in the valley of Virginia. The six chapters which are devoted to camp life reproduce an authentic and realistic picture through the letters written to his wife from Louisiana and Virginia. The remaining eight chapters, which are combat narratives, were published in *Harper's Magazine* between 1864 and 1868, and were based on notes and writings prepared in the field. These were later revised by De Forest and arranged together with his letters to form a complete record of his military life. The whole forms an unusually realistic picture of the life of the infantryman—the boredom of camp life, the eternal drilling, the agony of forced marches, the confusion of combat, and malingering and cowardice—all far removed from war as portrayed in imaginative narratives such as Stephen Crane's *Red Badge of Courage*. De Forest's chapter on "The First Time Under Fire" has a psychological validity and completeness which can be expressed and communicated only by a gifted and sensitive writer who has himself participated in a hot fire fight. A measure of his understanding is the statement that "in general, the terror of battle is not an abiding impression, but comes and goes like throbs of pain." Defeated men, he noted, usually walk from the field of battle—they seldom run. Such observations, in which the book abounds, make it a valuable addition to the authentic literature of warfare.

Far less value attaches to Edward Beattie's *Diary of a Kriegie*. This is an eight-months' record of the experiences of the well-known United Press correspondent who was taken prisoner in eastern France in September 1944. At the end of his first month as a prisoner, Beattie wrote in his

diary: "If I can talk to a few people in Berlin, and *then* get out before the end of the European war, it will make a grand story." And indeed it would have done so; but he was unable to persuade the Germans to release or exchange him, and was finally freed by the Russians when they took the Luckenwalde prisoner-of-war camp just south of Berlin shortly before the close of hostilities. The diary constitutes an interesting record of what Beattie saw and heard in the various camps through which he passed; it describes conditions under which he lived, and gives a picture of the German mood during the last winter of the war as far as this could be divined from the Berlin newspapers and conversations with camp guards and Propaganda Ministry officials. Beattie's experience was not typical, however. Had he possessed valuable military information, he would have been sent to a really tough interrogation center such as the one operated by the Luftwaffe at Oberursel near Frankfurt. Beattie's diary is a highly personalized document, good journalism and good reading, but what it portrays is far from typical of the life of the average prisoner of war behind the barbed wire. Among the best features of the book are the forty-six sketches illustrating the author's experiences and observations.

ORON JAMES HALE

University of Virginia

LETTER TO THE EDITOR

August 30, 1946

Dear Dr. Sellin:

I want to thank you for the very good intentions you had in reviewing my book, *Education in Palestine*, in the July issue of your publication. However, there could not have been a more unfortunate choice as far as the reviewer, Dr. Khalil Totah, is concerned. Dr. Totah's connection with the Institute of Arab-American Affairs, Inc. in this country makes it only natural for him to treat any book published by a Jew as Zionist propaganda. While it is true that it may be difficult for some people to keep their personal prejudices and beliefs in check when reviewing a book not to

their liking, it is only fair to the author that the content of the book be not distorted.

My book is, frankly, written by a Zionist viewing Palestine as what the utterly respectable, internationally accepted Mandate for Palestine called the Jewish National Home. Even an anti-Zionist cannot deny that there is a special and interesting Jewish educational achievement in Palestine. A British investigating commission has, by the way, just given it very respectful consideration. A "neutral" reviewer would have understood the book's point at once and would hardly have made the rather gratuitous remark that "the great number of long Hebrew names of organizations, parties, and movements do not make the book easy reading." Arabic names are, by the way, very like Hebrew.

Incidentally, while it is true that the Jews constitute about one-third of the total population of Palestine, the number of Jewish pupils enrolled in Jewish schools considerably exceeds the total number of Moslem children and is about the same as the combined total of Moslem and Christian children.

Dr. Totah reports that only eight pages of the book are devoted to Arab education. Anyone reading the book carefully will find numerous references to the Arab school system in the course of the discussion of a great variety of subjects—some fifty pages in all out of a total of two hundred and fifty-five. Dr. Totah should have mentioned that the book treats not only Arab education in Palestine, but also Arab education in Egypt, Iraq, and Syria. Chapter X, which deals with "Education and Arab-Jewish Relations," takes up sixteen pages of the book. It is inevitable that Arab education and relationships be treated in any serious study of Palestine's Jewish education, for the latter, like the Zionist movement as a whole, is not chauvinist and aims constantly at good relations with our Arab neighbors. We are confident that there will yet be such relations.

Dr. Totah, instead of dismissing the book as Zionist propaganda, would have done better had he accepted the challenge made in the book to the Arab leaders to lower

the high percentage of illiteracy prevalent among the Arab masses. Instead of this, Dr. Totah is very much concerned with the little space I allotted to the Christian missionary schools in Palestine. The reason for this is rather obvious, too, Dr. Totah himself having been directly connected with this type of school in Palestine. I wonder, however, if his Moslem colleagues will agree with his praise of missionary schools—Moslems, as well as Jews, have always resented the motives behind these schools.

I deeply regret that Dr. Totah was unable to approach my book with the objectivity one takes for granted in the reviewer of any earnest educational study.

Sincerely yours,

NOAH NARDI

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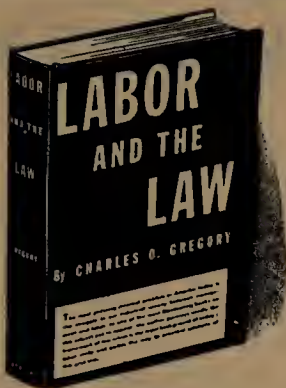
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